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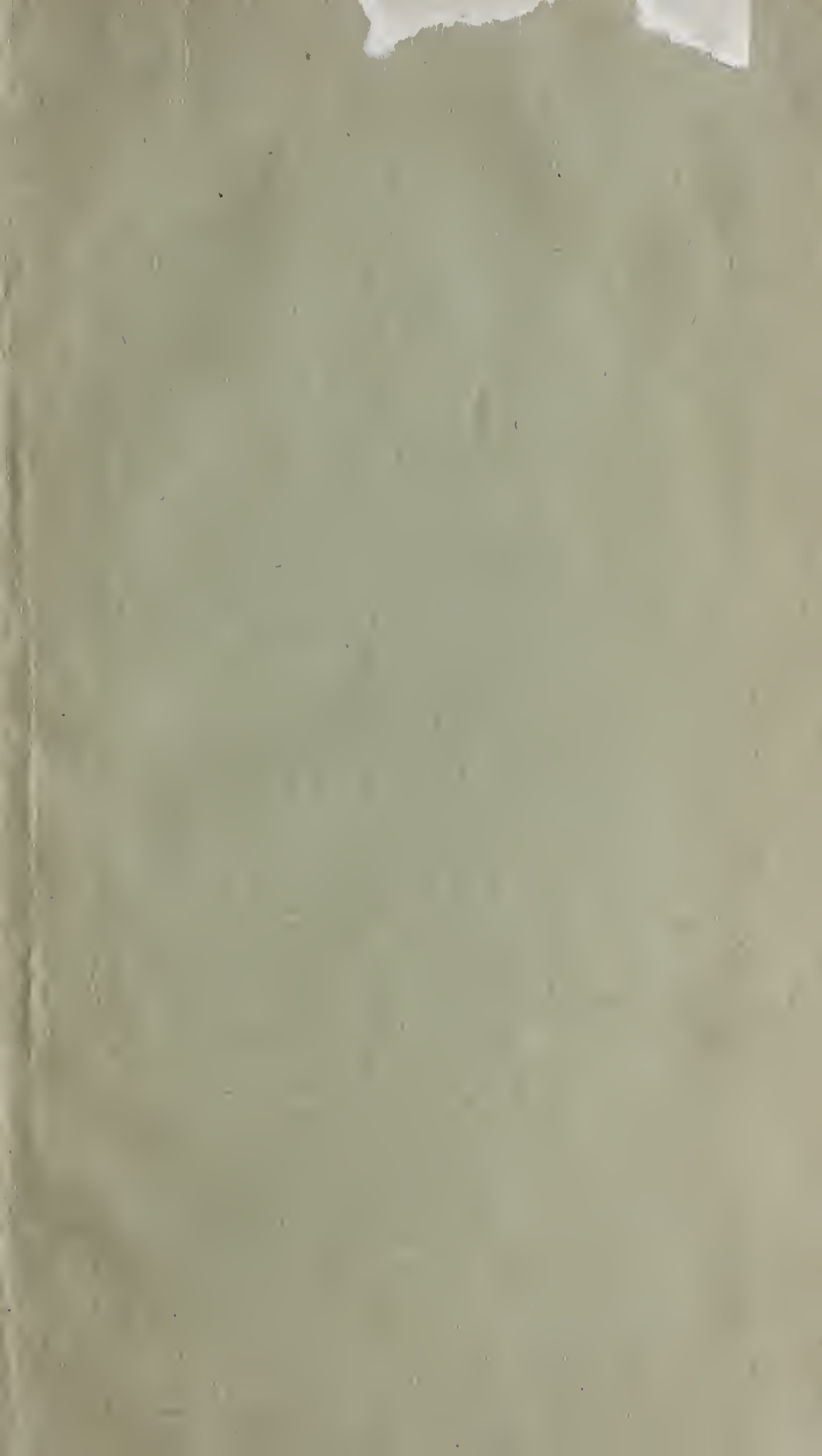
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VOLUME 2



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THE
ROMAN HISTORY,
FROM THE
BUILDING OF ROME
TO THE
RUIN OF THE COMMONWEALTH.

ILLUSTRATED WITH MAPS.

BY
N. HOOKE, ESQ.

A NEW EDITION, IN ELEVEN VOLUMES.

VOL. II.

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CONTENTS.

VOL. II.

BOOK II.

From the Establishment of the ROMAN COMMONWEALTH in the Year of Rome 243, to the rebuilding of the City in 365, after the burning of it by the Gauls.

CHAP. VIII.

I. THE TRIBUNES OF THE PEOPLE obtain of the senate, that two officers be annually elected (out of the plebeians) to be their ministers and assistants; who are afterwards called *ÆDILES*. II. The war is renewed against the Volsci. The Roman arms prevail. Caius Marcius Coriolanus signalizes his courage in this war. III. T. Geganius and P. Minucius are chosen consuls. Rome suffers extremely by a famine, and this calamity revives the civil dissensions. The senate, to disburthen the city, send away great numbers of the people to plant two colonies. The plebeians, who remain at Rome, grow more mutinous, in proportion as the famine increases. IV. The tribunes give out, that the dearth of provisions is owing to the malice of the senate. The consuls convene the people to undeceive them. The tribunes dispute with the consuls the right of speaking in the assembly. The next day, a LAW is passed by the people, *tribuno rogante*, whereby it is made penal to interrupt the tribunes when they are speaking in the *comitia*. Coriolanus, at the head of some volunteers, takes the field and ravages the enemy's territory, sharing all the spoil among his soldiers.

Pleb.
ædiles.

261.

CHAP. IX.

262. I. Plenty of corn being brought to Rome from Sicily (in the consulate of M. Minucius and A. Sempronius) fresh disputes arise in the senate about the distribution of it. CORIOLANUS. Coriolanus is for taking advantage of the people's distress to get the tribuneship abolished. The younger senators applaud the motion. II. The tribunes, who had been present at this debate, go away in a fury, and stir up the people to revenge. They cite Coriolanus to appear before them. He refuses. They endeavour to seize him as he comes out of the senate-house, but are repulsed by those who attend him. The consuls appease the tumult. III. Early the next morning the tribunes hold an assembly of the people on this affair. Minucius the consul, by gentle words, disposes the multitude to peace; but Coriolanus spoils all by a fresh declaration of the same sentiments which had before offended them. The tribunes condemn him to death. The patricians oppose the execution of this rash sentence, and the people seem not to approve it. The tribunes therefore resolve to prosecute Coriolanus in a legal way, and to convene the people by tribes for his trial. The assembly is adjourned.

CHAP. X.

I. The consuls endeavour by remonstrances to allay the heat of the tribunes, and bring them to conform to the ancient usages, which did not allow the people to take cognizance of any affair till it was referred to them by a decree of the senate. The tribunes consent to observe this rule, and desire they may be heard by the fathers in relation to their charge against Coriolanus. II. The tribune Decius makes a long speech in the senate, inveighing bitterly against the accused, and contending for the people's right to judge him. III. Appius Claudius in very strong terms opposes this pretension. IV. But Valerius, in terms no less strong, urges the expediency of the senate's compliance. He exhorts Coriolanus in the most pathetic manner to submit himself to the people's judgment; and he adds a discourse in behalf of a balance of power between the patricians and plebeians. V. It is

carried by a majority of votes, that Coriolanus shall be tried by THE PEOPLE. Coriolanus having assurances given him, that the accuser's charge shall be confined to the single crime of tyranny, consents to the drawing up of the decree.

CHAP. XI.

I. The day being come for Coriolanus's trial, a dispute arises between the consuls and tribunes, whether the people shall give their suffrages by CENTURIES, according to the ancient custom, or by TRIBES, which had never yet been practised. The tribunes, who are for the latter, prevail. II. Coriolanus's cause is heard. He is condemned to banishment, and leaves Rome.

COMITIA BY
TRIBES.

CHAP. XII.

I. The plebeians exult upon the victory they have gained over the patricians in the affair of Coriolanus. The Romans having now no war abroad, nor squabble at home to employ them, turn their minds wholly to superstition, during the consulate of Q. Sulpitius and Sp. Lartius. II. The tribunes, from a political view, persuade the people at the next election of consuls to choose men of little spirit, and mean abilities for war. Their choice falls upon C. Julius and P. Pinarius Rufus. III. In the mean time, Coriolanus retires privately to Antium, one of the principal cities of the Volsci, discovers himself to Attius Tullus, general of that nation, offers him his service against Rome, and is nobly received by him. IV. These two generals concert a stratagem to stir up the Volsci to renew the war with the Romans. Coriolanus is introduced by Tullus into the assembly of the Volscian states, and there makes a speech, which is highly applauded. They resolve upon war, and to commit the conduct of it to Tullus and Coriolanus; but first, by the advice of the latter, send an embassy to Rome, to make such demands of the republic, as they are sure will be rejected. The Volscian ambassadors are dismissed by the Roman senate with a haughty answer.

263.

264.

- Manlius Cincinnatus are elected to the consulate. They obtain a signal victory over the Hetrurians, chiefly by the bravery of the Fabii, who from this time become popular.
274. III. Cæso Fabius (a third time) and T. Virginius are chosen consuls. Cæso defeats the Æqui and Veientes. IV. The Fabian family undertake alone to guard the frontiers against the Veientes. Cæso, as soon as he has resigned the fasces (to L. Æmilius and C. Servilius) joins the rest
275. of his family in quality of PROCONSUL, a new invented dignity. V. The Romans carry on the war against the Æqui, Volsci, and Veientes. Æmilius, after a successful campaign against the last, is refused a triumph. He seeks to
276. revenge himself on the senate. VI. In the succeeding consulship (of C. Horatius and T. Menenius) all Hetruria declares war against Rome. The miserable fate of the Fabii. The Hetrurian arms prevail. But the next year's
277. consuls (A. Virginius and P. Servilius) give the enemy an entire overthrow.

CHAP. XVII.

- I. The tribunes not being able to carry their point in relation to the Agrarian Law, turn their rage against some consulars, who when in power had opposed them. Menenius, the last year's consul, is accused before the people,
276. and condemned in a fine. II. His successor Servilius is maliciously prosecuted as soon as he has resigned the
279. fasces to P. Valerius and C. Nautius, but he is honourably acquitted. In this and the following consulship (of Aulus Manlius and L. Furius) war is carried on with success against several of the neighbouring states. III. The
280. succeeding consuls, L. Æmilius (a third time chosen) and Vopiscus Julius, are publicly called upon by the tribune Genucius to name the commissioners for the partition of the lands. Finding that the consuls shun meddling in that affair, he begins a criminal process against their predecessors Manlius and Furius, for having neglected the naming of those commissioners. The trial is prevented by the sudden death of Genucius.

CHAP. XVIII.

- I. The haughty and imprudent behaviour of the consuls after the death of Genucius, in relation to P. VOLERO ;

whom, though he had been an officer, they would oblige to list himself for a common soldier. The people rise, and the consuls hide themselves. II. L. Pinarius and P. Furius succeed to the consulate, and Volero is chosen a tribune of the people. Volero proposes a law for electing the tribunes in the *comitia* by tribes. The disputes on this head are interrupted by a plague. III. The senate get the consulship for Appius Claudius and T. Quinctius. The two colleagues differ about the means to defeat Volero's project. IV. Volero renews the proposal of his law in an assembly of the people. Quinctius, by soft words, disposes the people to reject it: but Appius, by a speech full of pride and heat, ruins the effect of what his colleague had said. The tribune Lætorius commands Appius to leave the assembly, and even orders him to be led to prison. A scuffle ensues. Night puts an end to the disorder. V. The tumult is renewed the next morning. Quinctius by prudent management quiets it, and prevails with the senate to let Volero's law pass.

VOLERO'S
LAW.

Lætorius.

CHAP. XIX.

I. The consuls lead two armies into the field against the Æqui and Volsci. Appius's troops, that he may have no claim to a TRIUMPH, refuse to fight the enemy. He punishes them with the utmost severity, and returns to Rome. II. The affair of the Agrarian law being revived in the consulship of his successors (L. Valerius (a second time consul) and T. Æmilius) he opposes the tribunes with more heat than ever. They cite him before the people, as an enemy to the public liberty. He kills himself. III. The tribunes resume the affair of the conquered lands, but drop it again till the close of the next consulship (of A. Virginus and T. Numicius) when no plebeian appears in the *comitia*, where T. Quinctius (a second time) and Q. Servilius are chosen to that dignity. These consuls, to keep things quiet at Rome, busy the people in various wars. IV. The domestic dissensions begin afresh in the consulship of T. Æmilius (a second time consul) and Q. Fabius. Æmilius favours the people in relation to the Agrarian law. Fabius, without promoting that affair, falls upon an expedient to stop their complaints. V. He then takes the

- field, and reduces the Æqui to ask peace; who nevertheless
 287. in the next consulate of Sp. Posthumius and Q. Servilius
 (now a second time consul) begin to stir again; and in
 the following year, when T. Quinctius (a third time) and
 288. Q. Fabius (a second time) are consuls, the war breaks out
 289. anew; it is continued by their successors, A. Posthumius
 and Sp. Furius, to the advantage of the Romans. VI. In
 290. the succeeding consulate of P. Servilius Priscus and L.
 Æbutius Elva, a most dreadful plague rages in the city.
 The Æqui and Volsci appear before Rome, but soon retire:
 and the Romans the next year, under the command of the
 291. new consuls (L. Lucretius and T. Veturius) give them an
 entire overthrow.

CHAP. XX.

TEREN-
TIAN LAW.

- I. During the absence of the consuls from Rome, Terentius Arsa, one of the tribunes, proposes to the people, that there should be an establishment of FIXED LAWS to be the RULE to the magistrates in deciding causes between man and man. II. Q. Fabius, governor of the city, warmly opposes it, and sends to the consuls to return to Rome. Terentius, on their arrival, suspends the pursuit of his design. III. But the affair is revived in the succeeding
 292. consulate of P. Volumnius and S. Sulpitius. Great contests about it. A stop put to it by prodigies and ill omens. IV. The law is again proposed. The contending parties come to blows. Quinctius Cæso, the son of Quinctius Cincinnatus, is cited before the commons for the violent part he had acted in those scuffles. V. He has not courage to appear on the day appointed for his trial. His uncle T. Quinctius appears for him. Cæso is falsely accused of murder. The decision of the cause is deferred to another day; before the coming of which Cæso banishes himself.

CHAP. XXI.

- I. Notwithstanding the violent proceedings of the tribunes against Cæso, the patricians keep steady in their opposition to the Terentian law; and the better to maintain their ground, they get C. Claudius (brother of that

Appius Claudius who killed himself) into the consulship. 293.
 (P. Valerius, now a second time consul, is given him for C. Claudius,
 a colleague.) The tribunes, despairing of victory in a
 fair open contest, combine together to destroy the better
 part of the senate; and in order thereto, pretend to have
 discovered a plot upon the public liberty. Claudius ex-
 poses their malice and forgeries before the people, and
 thereby quashes their wicked design.

CHAP. XXII.

I. These civil broils among the Romans encourage one
 Herdonius, a private Sabine, to attempt the conquest of
 Rome. At the head of four thousand men he surprises
 the CAPITOL. The tribunes take advantage of this pub-
 lic distress, and before they will consent to let the people
 arm, insist upon a promise from the consuls, that they
 will not oppose the passing of the Terentian law. Claudius
 rejects the condition, but Valerius makes the promise re-
 quired, and prevails with the people to march against the
 enemy, and take an oath not to lay down their arms with-
 out the consuls' leave. Valerius is killed in the attack of
 the Capitol. Nevertheless the Romans carry the place,
 and Herdonius is slain.

HERDO-
 NIUS seizes
 the Ca-
 pitol.

CHAP. XXIII.

I. C. Claudius is cited by the tribunes to perform the
 promise of his deceased colleague. He defers it under
 various pretences; and at length refuses to do any thing
 in the affair, till a new consul be elected in the room of
 Valerius. L. Quinctius Cincinnatus is chosen to that dig-
 nity in his absence, to the terror of the people who had so
 lately banished his son Cæso. The deputies from the se-
 nate who carry Quinctius the news of his election, find
 him driving the plough. II. He comes to Rome, con-
 venes a general assembly, reproves both senate and peo-
 ple for their past behaviour, and threatens the latter (whose
 oath of obedience to the consuls was still binding) to lead
 them into the field, and make them pass the winter there.
 By this and other arts, which he employs, he makes the
 tribunes desist from their pursuit of the Terentian law.
 III. Virginius Volscius, and the other tribunes, get them-

Quinctius
 Cincinna-
 tus.

- selves continued in their employment for another year, notwithstanding a decree of the senate expressly made to hinder any citizen from standing two years together for the same office. The senate hereupon are for continuing Quinctius a second year in the consulate, but he rejects the motion with indignation, and reprimands them for showing so little regard to their own decrees. The fasces
 294. are transferred to Q. Fabius and L. Cornelius; and Quinctius returns to his plough. The quæstors commence a prosecution against Volscius, for having borne false witness against Quinctius's son Cæso; but the tribunes put a stop to it, and the senate make this a pretext for continuing their opposition to the Terentian law.

CHAP. XXIV.

- I. The consuls of the present year are successful in war against the Æqui and Volsci. But the next year, when
 295. C. Nautius and L. Minucius are consuls, the latter having the conduct of the war against the Æqui, suffers himself to be so shut up by the enemy in a valley, that his whole army is in danger of perishing by hunger. His colleague being employed against the Latines, and therefore unable to assist him, names Quinctius Cincinnatus dictator. This great man being fetched again from his plough, puts himself at the head of a strong army, expeditiously marches against the Æqui, blocks them up in their camp as closely as they had blocked up Minucius, and reduces them to surrender on his own terms. He then degrades Minucius from the consulate, and refuses to let the soldiers, whom he had rescued from danger, have any part of the enemies spoils.

- They nevertheless, in gratitude to him, make him a present of a crown of gold. He has a triumph at his return to Rome; and the 16th day after his promotion to the dictatorship resigns that office, and retires once more into the country, his son Cæso being first recalled from banishment. II. The senate in the next consulate (of C. Horatius and Q. Minucius) recal Quinctius again to Rome to set him up against the tribunes, who refuse the necessary levies for a war with the Æqui and Sabines, unless the Terentian law be first passed. Quinctius advises the se-
- 296.

nate and the whole body of the patricians to take arms: they accordingly repair all armed to the Forum, where Horatius convenes an assembly of the people, and reproaches them with their baseness and cowardice. The tribune Virginius, seeing the multitude moved by the consul's speech, consents to drop the affair of the law, and to wave his opposition to the levies, provided the senate will suffer the number of the tribunes to be augmented to ten. C. Claudius opposes this motion, but Quinctius declaring that he thinks it may turn to the senate's advantage to comply with it, his opinion prevails, and the people are allowed to choose TEN TRIBUNES.

Ten tribunes.

CHAP. XXV.

I. Icilius, chief of the tribunes, proposes that mount Aventine may be yielded to the people. The consuls M. Valerius and Sp. Virginius looking upon this new demand as a prelude to the revival of the Agrarian law, and deferring therefore to convene the senate for the hearing and debating it, Icilius sends an officer to them, commanding them to assemble the senate forthwith, and to repair to it themselves. The messenger, by order of the consuls, is chastised for his insolence by one of their lictors. The tribunes cause the lictor to be seized, and the senate, to save his life, are obliged to yield to the people the ground they demand. 297. II. The concessions of the senate make the tribunes still more presumptuous. T. Romilius and C. Veturius (consuls for the next year) attempting to force the citizens to list themselves for a war in spite of the opposition of the tribunes, the latter order the ædiles to seize those supreme magistrates and lead them to prison. The patricians hinder by force the execution of this order. The tribunes hereupon cite the consuls to appear before an assembly of the people. Their citation being disregarded, they apply to the senate for a decree, empowering the people to try the consuls. Romilius answers them with reproaches and menaces, and nothing is determined that day. 298. III. The tribunes, without any further soliciting a *senatus-consultum*, resolve to get the consuls condemned by the people in a fine; but when the day for the assembly comes, they drop that design, and propose anew

Sicinius
Dentatus.

- the Agrarian and Terentian laws. Sicinius Dentatus, an old soldier, makes a notable speech in relation to the former. The assembly is adjourned to the next day; and then the patricians by violence hinder the suffrages from being collected. The following day the people being again assembled, empower their tribunes to make inquiry after the authors of the tumult. The misdemeanor is charged upon three eminent patrician families; and the senate, to pacify the people, suffer the estates of the delinquents to be confiscated without opposition. IV. During these contentions, the consuls are obliged to lead an army into the field against the Æqui. Sicinius Dentatus serves as volunteer in this war at the head of eight hundred veterans. Romilius orders him with his company upon a desperate enterprise. Sicinius remonstrates against it, but nevertheless obeys; and he succeeds so well, as to occasion the total defeat of the enemy by the consuls; afterwards he marches to Rome, complains to the people of the general's tyranny, and prevails with them to refuse him a triumph. And in the following consulate (of Sp. Tarpeius and A. Æternius) Sicinius being chosen tribune, Romilius and Veturius are accused before the people for misconduct during their magistracy, and fined. A law is also passed, empowering any magistrate to impose a fine for disobedience.

CHAP. XXVI.

- I. The tribunes, finding they cannot by any means bring the consuls to hear of the AGRARIAN LAW, return to the pursuit of the Terentian. Romilius, whom the people had lately fined, takes part with them on this occasion. At his motion both senate and people agree to send deputies to Athens to copy out the laws of Solon, and of the other lawgivers of Greece, in order to form thereby a body of Roman law, to be the future rule to the magistrates in all the parts of their administration. The next year (when
300. Sextus Quintilius and P. Horatius are consuls) there is neither war abroad, nor contention at home, but Rome is dreadfully afflicted by a plague. II. In the following
301. consulate of P. Sestius and T. Menenius, the deputies return from Greece. The people press the nomination of

the ten commissioners, or decemvirs, who are to compile the new laws. The consuls, to avoid proceeding in this affair, insist upon a previous election of their successors, under whose administration it is to be settled. Appius Claudius (son of that Appius who killed himself, and grandson of the first Appius) is chosen with T. Genucius. After this Menenius pretends sickness. The consuls elect, to please the people, offer to forego their pretensions to the consulate, rather than hinder the immediate nomination of the decemvirs. Sestius, the colleague of Menenius, assembles the senate, where it is carried by a majority to create decemvirs, and the tribunes, after some struggle, consent to let them be all patricians. III. The election is made in the *comitia* by centuries, where Appius is the first named. The decemvirs, having entered upon their office, behave themselves much to the satisfaction of the people. They compose TEN TABLES OF LAWS, which are approved by the centuries assembled.

APPIUS
CLAUDIUS.
III.

302.

DECEMVI-
RAL govern-
ment and
laws.

CHAP. XXVII.

Fragments of the TEN TABLES of laws before mentioned, as they have been collected and digested by the learned Jesuits Catrou and Rouillé, and also of the Two TABLES of laws soon after added to the TEN.

CHAP. XXVIII.

I. The people and senate agree to have the same sort of government continued for another year, in order to the adding two tables of laws to the ten already established. The colleagues of Appius, suspecting him of ambitious views, declare him president of the assembly where the second election of decemvirs is to be made, thinking thereby to hinder him from being one of the candidates. But Appius, in spite of all decency, names himself the first, and not only gains the voices of the assembly in his own favour, but in favour of nine men (three of them plebeians) all devoted to his will; to the exclusion of all his late colleagues, and of the best men in the republic. II.

The new decemvirs privately agree to make their authority perpetual. They exercise an absolute and cruel tyranny. C. Claudius, the uncle of Appius, would reprove him for

303.

504.

his conduct, but cannot get admittance to him. Two new tables of laws are drawn up. III. The year of the decemvirs government being expired, they continue themselves in office by their own authority. They convene the senate in order to obtain a levy of troops to oppose the incursions of the Æqui and Sabines. Valerius, an avowed enemy of the decemvirs, in the warmth of his zeal, rises up to speak before his turn. Appius commands him silence, and not being obeyed, threatens to punish him as an incendiary. Horatius answers the decemvir in a bold speech, which makes him soften his tone and manner. Appius desires his uncle C. Claudius to give his opinion. The uncle with great frankness reproves his nephew for all his vices and tyranny, and exhorts him to divest himself of a power which he held only by usurpation, and which in the end would prove fatal to him. He concludes with declaring against any levies of troops till the consulship be restored. The Quinctii and all the other eminent members of the senate are of the same opinion. The majority is nevertheless for empowering the decemvirs to raise troops, and to command them; which Appius perceiving, then calls upon Valerius to speak his opinion. Valerius declares for naming a dictator, and moves to have the question put, and this motion is seconded; but the other party cry out, that the affair is already determined, and the care of the war given to the decemvirs. A decree to that effect is accordingly drawn up. IV. Valerius and Horatius, to secure themselves from being insulted by the decemvirs, keep guards about their persons. Many of the senators, and other principal citizens, retire into the country. Appius confiscates their estates. V. Fabius, with two other of the decemvirs, leads an army against the Sabines. Five other decemvirs lead five legions against the Æqui. Appius and Oppius stay with a body of troops in Rome. Nothing succeeds in the two camps, the soldiers being resolved not to conquer. Sicinius Dentatus, that old soldier, who had been in one hundred and twenty battles, publicly gives out at Rome, that the misfortunes of the campaign are owing to the incapacity of the generals. Appius hereupon contrives, in concert with the decemvirs, who command against the Sabines, to get him treacherously murdered. The discovery and report of so detestable a villany disposes the soldiers to a revolt.

Sicinius
Dentatus
treache-
rously
murdered.

CHAP. XXIX.

I. Appius (at Rome) falls in love with Virginia, the daughter of a plebeian named Virginus, a centurion in the army employed against the Æqui. To get her into his power, having in vain tried to corrupt her nurse, he concert's a stratagem with M. Claudius, one of his clients. Claudius seizes the girl as a slave belonging to him, and leads her before the decemvir's tribunal, there to have his right legally confirmed to him. He pretends that Virginia was born of one of his slaves, and that Numitoria, the wife of Virginus, had (in concert with the mother of the girl) imposed her upon Virginus as her own child, she herself being barren. II. Numitorius, the uncle of Virginia, demands that the decision of the affair may be suspended, and his niece left under his care till her father can be fetched from the camp. The decemvir finds reasons for refusing this request: but Icilius, to whom Virginia had been promised in marriage, coming into court just in this instant, spirits up the people to such a pitch of fury, that Appius thinks fit to comply. Virginus is sent for, and arrives at Rome, notwithstanding the secret measures taken by Appius to intercept him on the road. III. The cause is heard, and the imposture of Claudius made manifest to all present. Appius nevertheless making himself a witness in the affair, and pretending conscience, decrees Virginia to his client. The father hereupon, to hinder his daughter from being dishonoured, stabs her, and then hastens back to the army, leaving the city in a great commotion, which Valerius and Horatius take care to augment. IV. The soldiers, upon hearing the tragical story from Virginus, revolt from their generals, return to Rome, and encamp on Mount Aventine. V. The senate being convened by the decemvir Oppius, despatch three of their body to them, to question them upon their desertion. The soldiers unanimously cry out, to have Valerius and Horatius sent to them, and they give no other answer. This army is soon after joined by all the soldiers of the other, who were equally incensed against the decemvirs, by the complaints of Icilius. The senate is for sending Valerius and Horatius to the mutineers; but those two

VIRGINIA.

Scipio
Dentatus
treacher
tongue
murdered

the soldiers to revolt

senators refuse to go unless the decemvirs depose themselves. The latter reject this condition, till they hear that the armies are marched to the Mons Sacer; they then promise to lay down their authority. VI. Valerius and Horatius repair to the Mons Sacer, and prevail with the army, upon a promise of the ancient government's being restored, to return to Rome; but the soldiers before they separate choose their tribunes; and soon after Valerius and Horatius are named consuls. VII. These popular magistrates get several new laws passed in favour of the people. VIII. Virginius, being now one of the tribunes, impeaches Appius for his conduct as a judge in relation to Virginia; and insists upon his making his defence immediately, or being imprisoned till the day of trial. Appius appeals to the people, but in vain. He is carried to prison. His uncle, C. Claudius, solicits for his enlargement without success. Appius dies in prison. His colleague, Oppius, being tried and condemned, dies also in prison the day of his commitment. The other decemvirs all banish themselves. Claudius, the client and minister of Appius, is condemned to death, yet suffers only banishment. The tribune, Duilius, puts a stop to all further prosecutions, relating to the tyranny of the decemvirs.

CHAP. XXX.

I. The consuls take the field. Valerius defeats the Æqui and Volsci, and Horatius, the Sabines. Nevertheless the senate, being dissatisfied with their too popular administration, and being especially moved by a speech of C. Claudius, who inveighs bitterly against them, reject their petition for a triumph. Hereupon they apply to the people, and obtain of them, by means of the tribunes, what the senate had refused. II. The tribunes form a design of getting themselves perpetuated in the tribuneship, and Horatius and Valerius in the consulate. Duilius, disliking this project of his colleagues, contrives to defeat that part of it which related to the consuls, by engaging these to declare publicly, that they will not hold over after their year is expired, though the people should desire it. He then holds the assembly for electing tribunes; and by his influence, joined with the senate's, five new ones are chosen; after which, finding that he cannot prevail with the tribes to fill

the other five places with new magistrates, he dismisses the assembly, referring the completion of the whole number of ten tribunes to the five already elected. These five, among those they associate with them in their office, name two patricians. (Lartius Herminius and T. Virginius are chosen consuls.) TREBONIUS ASPER, one of the plebeian tribunes, shortly after gets a law passed, forbidding the tribunes the practice of co-optation. III. The next year (when M. Geganius and C. Junius are consuls) produces nothing remarkable. But in the succeeding consulate, (of T. Quinctius Capitolinus and Agrippa Furius) the old dissensions are renewed; insomuch that though the Æqui and Volsci, taking advantage of these disorders, ravage the country to the very gates of Rome, the tribunes oppose the necessary levies of troops to repulse them: but Quinctius gets the better of this opposition, by a speech he makes to the people. The consuls rout the enemy, and make a great slaughter of them. IV. The Roman people dishonour themselves by a judgment they give in a cause referred to their arbitration, by the cities of Ardea and Aricia.

Co-optation

305.

Trebonian
Law.
306.

307.

Quinctius
Capitolinus.Unjust de-
cree of the
Roman
people.

CHAP. XXXI.

I. The commons of Rome (in the consulate of M. Genucius and C. Curtius) demand that plebeians may be admitted into the consulship, and that the law prohibiting patricians and plebeians from inter-marrying may be repealed. Canuleius, one of the tribunes, declares to the senate in the most solemn manner, that he will constantly oppose all levies of troops, let the want of them be never so pressing, till these concessions are made to the people. II. C. Claudius, in a private assembly of the oldest senators, moves to have recourse to arms and violence, rather than yield to these demands. But T. Quinctius and the majority of the assembly think it better to comply than come to a rupture with the people. Claudius hereupon, to hinder the debasing of the consulship, makes this new proposal, that instead of consuls, a certain number of MILITARY TRIBUNES be chosen partly out of the senate, and partly from among the commons; and that these new magistrates be invested with consular power. This project being approved, the senate is assembled, and

308.

Canuleius.

- the tribunes are called to it, to give their reasons in behalf of the new laws which they demand. Canuleius, instead of speaking to the matter in hand, inveighs against the consuls for holding secret assemblies, from which Horatius and Valerius are excluded. The consul, Genucius, gives a satisfactory answer to this complaint. After Valerius and Horatius have spoken in favour of the people, and Claudius against them, the consul's brother, T. Genucius, makes the proposal which had been suggested by C. Claudius. In conclusion it is approved by senate and people, and six **MILITARY TRIBUNES** (three of each order) are to take the place of two consuls. III. But when the day of election comes, the people will not give their voices to any but patricians; and only three military tribunes are elected. These are obliged soon after to abdicate on account of some defect in their inauguration; and two consuls (L. Papirius and L. Sempronius) are chosen to govern the republic the remainder of the year. IV. Under the succeeding administration of T. Quinctius Capitolinus (a fifth time consul) and M. Geganius, (a second time) the **CENSORSHIP** is established.
309. **MILITARY TRIBUNES.**
310. **CENSORS.**

CHAP. XXXII.

- I. The Romans put an end to the civil war among the Ardeates. II. The next year's consuls, M. Fabius and Posthumius Æbutius, make the Ardeates some amends for the wrongs the Romans had done them on occasion of their contest with the Aricians. This year proves a year of peace, as does also the following year, when the government is in the hands of C. Furius and M. Papirius. III. But in the succeeding consulate of Proculus Geganius and L. Menenius, a Roman knight, named Sp. Mælius, aspires to the sovereign power. Being a rich corn-merchant, he, during a dearth of provisions, wins the meaner sort of people by a free distribution of corn, and some of their tribunes by money. He causes great quantities of arms to be brought into his house by night. His designs are discovered by Minucius, superintendant of provisions, in the consulate of T. Quinctius Capitolinus (now a sixth time consul) and Agrippa Menenius. Quinctius on this occasion names his brother, Quinctius Cincinnatus, dictator, who appoints Servilius Ahala to be his general of
- 311.
- 312.
- 313.
- Sp. Mælius, the corn-merchant.
- 314.

the horse. Mælius being summoned to appear before the dictator's tribunal, and not obeying, is slain by Servilius. Three of the tribunes, provoked at this action, stir up the people to mutiny; and the patricians, to pacify them, consent to the creation of military tribunes for the next year. None but patricians are chosen to that office. 315.

CHAP. XXXIII.

I. Fidenæ revolts from the Romans, and puts itself under the protection of Tolumnius, king of the Veientes. The Romans prepare for war, and thinking it advisable to have consuls to conduct it, M. Geganius (a third time) and L. Sergius are chosen; but these soon resign the care of the war to a dictator, Mamercus Æmilius, who defeats the enemy in a pitched battle, wherein Cornelius Cossus, a legionary tribune, kills Tolumnius and strips him of his armour. II. In the following consulate of M. Cornelius and L. Papirius, a tribune, named Sp. Mælius, commences a prosecution against Servilius and Minucius, for the death of Mælius the corn-merchant. The historians are not agreed about the issue of it. III. The Veientes and Fidenates renew the war during the consulate of Julius Iulus and L. Virginus, when the Romans are sorely distressed by a plague. Q. Servilius Priscus, being named dictator, routs the enemy and takes Fidenæ. It is uncertain what magistrates were chosen to govern the republic the next year; but whoever they were, they resigned their authority to Mamercus Æmilius, who is again named to the dictatorship, upon a rumour that all Hetruria is preparing for war. This rumour proves groundless. Æmilius, through zeal for the public liberty, gets a law passed restraining the office of censor to eighteen months duration. He then resigns the dictatorship. C. Furius and M. Geganius, the censors, in revenge deprive him of the common privileges of a citizen. Æmilius nevertheless protects those his bitter enemies from the fury of the populace, who are ready to murder them. IV. The senate are obliged to humour the people, by suffering military tribunes to be created for the next year. However none but patricians are chosen. Nothing memorable happens during their administration, but a plague, which

- ceases in the following year, when the republic is again
321. governed by military tribunes, all patricians. The rich plebeians complain of the poorer sort for their having constantly refused to elect any of them to that magistracy. A law is passed, forbidding those who stand for offices to wear garments of an extraordinary whiteness: the senate, fearing lest some of the chief plebeians should get into the military tribuneship, determine, if possible, to restore the consulship (from which plebeians are excluded.) A war with the Æqui favours this design. T.
322. Quinctius (son of Lucius) and C. Julius are chosen consuls; but these disagreeing, through jealousy, the senate judge it necessary to have a dictator. The consuls refuse to name one. The senators, provoked hereat, rashly apply to the tribunes to interpose in the affair. The tribunes threaten the consuls to have them carried to prison if they do not comply. Posthumius Tubertus is named dictator. He defeats the enemy and returns triumphant to Rome.
323. V. The Æqui, in the following consulate of C. Papirius and L. Julius, obtain a truce for eight years. (A regulation is made, that fines shall for the future be paid in money instead of cattle.) The Romans continue in peace, during this and the succeeding consulate of L. Sergius (a
324. second time consul) and Hostus Lucretius. The next year, when T. Quinctius (a second time) and A. Cornelius Cossus are consuls, Rome is afflicted by a famine and a plague, which occasions the people to have recourse to foreign superstitions, but these are soon prohibited. VI.
325. The Veientes, in the following consulate of L. Papirius (a second time consul) and Servilius Ahala, make incursions on the Roman lands. Disputes arising between the senate and people about the prerogative of proclaiming this war,
326. the Romans do not take the field till the next year, when the people prevail to have military tribunes in the government, but they are all patricians. These not acting in concert are defeated by the enemy; whereupon Mamercus Æmilius (who had been degraded by the censors) is a third time raised to the dictatorship. He gives the Veientes a total overthrow, and takes their camp, as also Fidcnæ, which had again revolted from the Romans.

CHAP. XXXIV.

I. Military tribunes are chosen to the government the 328.
 two following years; but the choice falls only on patri-
 cians. The tribunes of the commons use their utmost en- 329.
 deavours to dissuade the people from this preference of
 the nobles to them, in the elections. The senate to coun-
 terplot them, before the new elections come on, contrive
 to send away the principal of the plebeians into the field
 against the Volsci. In their absence, Appius Claudius,
 (son of the decemvir) one of the military tribunes, holds
 an assembly for electing consuls, and C. Sempronius and
 Q. Fabius are chosen. II. Sempronius brings the whole
 Roman army into danger of being cut to pieces by the
 Volsci. An officer of horse, named Tempanius, by his
 bravery and prudence, prevents the defeat of the Romans.
 He arrives at Rome before the consul, and gives testimony
 in favour of his conduct. III. The people condemn Post-
 humius (one of those military tribunes, who by their disunion
 had lost a battle in the year 327) in a fine. Tempanius is
 made one of the tribunes of the commons. His general,
 Sempronius, being prosecuted by the people for his mis-
 conduct, he takes his part, and engages the tribune Hor-
 tensius, the accuser, to drop the prosecution. 331.

Appius
 Claudius
 IV.
 330.

(A MAP of)
The Eastern Part
OF THE
ROMAN EMPIRE.

The Modern names of Places are put after the Ancient



ETHIOPIA



THE ROMAN HISTORY.

BOOK II.

CHAP. VIII.

I. *The TRIBUNES OF THE PEOPLE obtain of the senate, that two officers be annually elected (out of the plebeians) to be their ministers and assistants; who are afterwards called ÆDILES.* II. *The war is renewed against the Volsci. Caius Marcius Coriolanus signalizes his courage in this war.* III. *A famine at Rome revives the civil dissensions. The senate send away great numbers of the people to plant two colonies.* IV. *The tribunes give out that the dearth of provisions is owing to the malice of the senate. The consuls convene the people to undeceive them. The tribunes dispute with the consuls for the right of speaking in the assembly. The contrivance of Brutus to engage the people to make a LAW, Tribuno rogante. The senate will not admit this law to be valid. The tribunes refuse the senate levies regularly made to act against the Antiates. Coriolanus, at the head of some volunteers, ravages the enemy's territory, sharing all the spoil among his soldiers.*

I. ROME, by the establishment of the tribuneship, made a great advance towards a new change in the form of her government. It had passed before, as we have already seen, from the monarchic state, to a kind of aristocracy; for upon the expulsion of Tarquin, the whole authority did really and in fact devolve upon the senate and the great: but now, by the

Year of
R O M E
CCLX.
Bef. J. C.
Four hundred
ninety-two.

Seventeenth.
Consulship

Year of
R O M E
CCLX.
Bef. J. C.
Four hun-
dred nine-
ty-two.

Seventeenth
Consulship.
D. Hal. B.
6. p. 413.

p. 414.

Plut.
p. 218.

of it. This exploit achieved, he with all expedition put himself in the foremost ranks of the consul's main army, that was just going to engage with the Antiates, who were come to the relief of the place; and there he behaved himself with equal bravery, and had equal success.

The next day the consul, having erected his tribunal before his tent, called the soldiers together. His whole speech to them was little more than a panegyric upon Marcius. He put a crown upon his head, assigned him a tenth part of all the spoil, and, in the name of the republic, made him a present of a fine horse with stately furniture, giving him leave at the same time to choose out any ten of the prisoners for himself; and, lastly, he allotted him as much money as he could carry away. Of all these offers Marcius accepted only the horse, and one captive of the ten, an old friend of his family, that he might give him his liberty. So generous and disinterested a conduct left no room for jealousy or envy: and to add to the glory of the brave warrior, the consul bestowed on him the surname of CORIOLANUS, transferring thereby from himself to Marcius all the honour of the conquest of Corioli.

Cominius, at his return to Rome, disbanded his army; and war was succeeded by works of religion, public games, and treaties of peace. The Latines having of late deserved well of the republic, a new treaty of peace and alliance was made with them, and confirmed by oaths; and in memory of the happy reconciliation

between the senate and people, a third day was at this time added to the *Feriae Latinae*.

During this festival Menenius Agrippa died, and in great poverty, like Poplicola. His relations thought to bury him privately, and without ceremony; but the people being informed of it, they agreed to pay a sextans (or two ounces of brass) *per* head, in order to have magnificent obsequies for him. Upon this the senate entered into an emulation with the commons, and would by no means suffer an illustrious patrician to be buried at the expense of the plebeians. They allotted a sum out of the public treasury for his funeral, and committed the care of it to the quæstors. Nevertheless the people refused to receive back their money, and ordered it to be given to Menenius's children, *to comfort them in their indigence, and excite them to the pursuit of virtue.*

A census and a lustrum closed the events of this memorable consulship; there appeared to be in Rome at this time no more than one hundred and ten thousand men fit to bear arms, a number by many thousands¹ less than at the last enrolment.

III. UNDER the following administration of T. Geganus and P. Minucius, Rome was terribly afflicted by a famine, occasioned chiefly by the neglect of ploughing and sowing during the late troubles; for the secession had happened after the autumnal equinox, about sowing-time; and the accommodation was not

¹ Doubtless great numbers had run away to avoid being slaves to their creditors.

Year of
R O M E
COLX.

Bef. J. C.
Four hundred
ninety-two.

Seventeenth
Consulship.

D. Hal. B.
6. p. 415.

p. 416.

Year of
R O M E
CCLXI.
Bef. J. C.
Four hun-
dred nine-
ty-one.

Eighteenth
Consulship.

D. Hal. B.
7. p. 417.
Livy, B. 2.
c. 34.
D. Hal. p.
418 & 427.

made till just before the winter solstice. The senate dispatched agents into Hetruria, Campania, the country of the Volsci, and even into Sicily, to buy corn. Those who embarked for Sicily met with a tempest which retarded their arrival at Syracuse; where they were constrained to pass the winter. At Cumæ, the tyrant Aristodemus seized the money brought by the commissaries; and they themselves with difficulty saved their lives by flight. The Volsci, far from being disposed to succour the Romans, would have marched against them, if a sudden and most destructive pestilence had not defeated their purpose. In Hetruria alone the Roman commissaries met with success. They sent a considerable quantity of grain from thence to Rome in barks: but this was in a short time consumed; and the misery became excessive: the people were reduced to eat any thing they could get; and nature in so great extremity lothed nothing.

During this distress a deputation came from Velitræ, a Volscian city, where the Romans had formerly planted a colony, representing, that nine parts in ten of its inhabitants had been swept away by a plague, and praying the Romans to send a new colony to repeople it. The conscript fathers, without much hesitation, granted the request: for they considered that Velitræ might be an excellent barrier against those of the Volsci who should be disposed to invade the Roman territory; and that by discharging Rome of a great number of the citizens, the famine would be lessened. But what

Plut. in
Coriol.
p. 219.

more than any thing else determined them to this measure, were the murmurings of the people against the patricians, for not having foreseen and prevented, by timely precautions, the present calamity. Some went so far as to accuse the nobles of designedly bringing the famine upon the plebeians, by way of revenge for the secession. The senate therefore pressed the departure of the colony, and without delay named three leaders to conduct it.

The people at first were very well pleased with the proposal, as it gave them a prospect of relief in their hunger: but when they reflected on the terrible havock the plague had made among the old inhabitants of Velitræ, they began to fear that the place might be still infected; and this apprehension became so universal, that not one of them would consent to go thither. Nevertheless the senate at length publishing a decree that all the citizens should draw lots, and that those to whose lot it fell to be of the colony should instantly march for Velitræ, or suffer the severest punishments for their disobedience, fear and hunger made the people comply; and the fathers, a few days after, sent away a second colony to Norba, a considerable city of Latium. But the patricians were disappointed as to the benefit they expected from these measures. The plebeians who remained in Rome, being more and more pressed by hunger and want, grew daily more angry with the senate. At first they assembled in small companies to vent their wrath in abusive complaints, and at length, in one great

Year of
R O M E
CCLXI.
Bef. J. C.
Four hundred ninety-one.

Eighteenth
Consulship.

D. Hal. B.
7. p. 428.

Year of
R^{OM}E
CCLXI.
Bef. J. C.
Four hun-
dred nine-
ty-one.

Eighteenth
Consulship.

D. Hal. B.
7. p. 429.

body, rushed all together into the forum, calling out upon their TRIBUNES for succour.

IV. THE tribunes made it their business to heighten the general discontent. Having convened the people, SPURIUS ICILIUS, chief of the college, inveighed most bitterly against the senate, and when he had ended his harangue, exhorted others to speak freely their thoughts; particularly, and by name, calling upon Brutus and Sicinnius, now ædiles. These men, far from attempting to extinguish the fire, added fresh fuel to it. In set speeches, which they had purposely prepared, they insinuated, that the dearness of provisions was wholly owing to the resentment and revenge of the rich patricians, touched to the quick at the liberty the people had recovered by their secession: that having *corn* hid in their granaries, and *money* to buy what provisions were brought from foreign countries (while the plebeians had neither the one nor the other) they little troubled themselves about the famine: and that the sending away such a numerous colony of Roman citizens into an infected air, could be with no very good design². And the more to inflame

² The plebeians and their leaders were, doubtless, in some respects, very unjust towards the senate, on this occasion: yet the latter seem blameable for not having taken more early measures to prevent the scarcity of provisions, which the want of a year's crop must naturally occasion. And by the speeches which Dionysius and Livy (as we shall see hereafter) put into the mouth of Coriolanus, and which are represented as heard with applause by a great part of the senate, it appears, that there were many in that body, who meant to take advantage of the people's hunger to get the tribuneship abolished.

the spirits of the multitude, they enumerated all the past insults which the people had suffered from the nobles. Brutus concluded his harangue with loudly threatening, that, if the plebeians would follow his advice, he would soon oblige those men, who had caused the present calamity, to find a remedy for it: after which the assembly was dismissed.

The next day, the consuls, greatly alarmed at this commotion, and apprehending, from the menaces of Brutus, some very mischievous event, thought it advisable to convene the senators, that they might consider of the best means to avert the impending evil. The fathers could not agree in opinion. Some were for employing soft words and fair promises to quiet and gain over the most turbulent. But Appius's advice prevailed, which was, that the consuls should call the people together, assure them that the patricians had not brought upon them the miseries they suffered, and promise, on the part of the senate, all possible care to provide for their necessities; but, at the same time, should reprove the disturbers of the public peace, and threaten them with the severest punishments, if they did not amend their behaviour.

When the consuls, towards the close of the day, having assembled the people, would have signified to them the disposition and intention of the senate, they were interrupted by the tribunes. A dispute ensued, in which no order or decency was observed on either side. Several speaking at the same time, and with

Year o
R O M E
CCLXI.
Bef. J. C.
Four hun-
dred nine-
ty-one.

Eighteenth
Consulship.
D. Hal. B.
7. c. 15.

Year of
R O M E
CCLXI.
B. f. J. C.
Four hun-
dred nine-
ty-one.

~~~~~  
Eighteenth  
Consulship.  
D. Hal. B.  
7. p. 430.

great vociferation, no one could be well understood by the audience. The consuls judged, that being the superior magistrates, their authority extended to all assemblies of the citizens. On the other side, it was pretended, that the assemblies of the people were the province of the tribunes, as the senate was that of the consuls. The dispute grew warm, and the hottest, in each party, were just ready to come to blows, when Brutus, advancing into the midst of the assembly, and addressing himself to the consuls, promised them that he would quiet the tumult, if they would give him leave to speak. The consuls hearing a plebeian orator ask of them permission to speak, instead of asking it of his tribunes; imagining from hence, that he yielded the point in dispute, readily consented to his request. Silence being made, Brutus, without any preamble, fell at once to interrogating the consuls: “Don’t you remember (said he) that in our treaty of accommodation, this right was granted by you to us, that when the tribunes should convene the people, on any affair whatever, the patricians should neither be present in the assembly, nor disturb it?” —“I remember it very well,” answered Geganius. “Wherefore then (added Brutus) do you disturb us now, and hinder our tribunes from saying what they think fit?” —“Because (replied Geganius) the people are not now assembled by the tribunes’ orders, but by ours. If the tribunes had convoked this assembly, they would have met with no molestation from us, nor would even our curiosity have brought

us hither to hear what past. Nor, though we convened the present assembly, do we object to their speaking: but we think it highly unjust that they should hinder us from exercising that prerogative."

Brutus hereupon cried out, "Plebeians, the victory is ours, our adversaries have yielded all we desired. Cease disputing to-day; to-morrow I will shew you what is the extent of your power. And, you tribunes, give place to the consuls for the present; you will not do it for ever, when you shall know the prerogatives of your dignity: and these you shall soon learn. I promise you to make the thing clear to demonstration, and to humble, in some measure, the haughtiness of these patricians. If I deceive you, inflict upon me what punishment you please."

Nobody offering to answer Brutus, the assembly broke up; and the two parties retired with very different thoughts. The indigent plebeians went home, persuaded that Brutus had hit upon some excellent scheme, and would not be so bold in promising, if he had not the means of performing. On the other hand, the patricians despised him as an idle boaster, and considered his promises as mere empty air; knowing very well, that the only power, granted by the senate to the tribunes, was that of succouring the plebeians in case of oppression. Not all the nobles, however, made so light of the matter. The oldest senators, especially, apprehended some great and incurable mischief from the fury of that enterprising plebeian.


Year of  
R O M E  
CCLXI.  
Bef. J. C.  
Four hundred  
ninety-one.

Eighteenth  
Consulship.

D. Hal. B.  
7. p. 431.




Year of  
R O M E  
CCLXI.  
Bef. J. C.  
Four hun-  
dred nine-  
ty-one.

  
Eighteenth  
Consulship.

Brutus spent the following night with the tribunes, imparting to them his project, and consulting with them on the best measures for its execution. Escorted by a considerable body of plebeians, they, by break of day, repaired to the forum, took possession of the temple of Vulcan, (where it was usual for those to place themselves who intended to harangue) and presently gave orders to call the people together. The forum was quickly crowded; never was a greater confluence of the citizens. Then the tribune Icilius, stepping forward, entered into a long invective against the patri- cians, summing up all the hardships and op- pressions which the people had formerly suf- fered from them. He added,—“ And no longer ago than yesterday, they even hindered me from speaking, thereby depriving me of all power belonging to my office. For what power can we hereafter have to do any thing, if the liberty of speaking be not allowed us? How shall we be able to give you any assistance when oppressed by them, if we be deprived of the power of calling you together [and confer- ring with you]? for all business is begun by words; and certain it is, that they who have not the privilege to speak what they think, will never be able to execute what they desire. Take back therefore the authority you have given us, if you will not so confirm it to us, that we may have the free and undisturbed ex- ercise of it; or, if you are willing to confirm it, make a law, prohibiting all persons from giving us hereafter any molestation.”

This discourse being received with great applause, and the people crying out to him to propose the law, he immediately read it aloud to them, (for he had prepared it the night before) and then, without delay, proceeded to take their suffrages; the affair requiring the utmost dispatch, lest the consuls should come and oppose it. The law was in terms to this effect: "When a tribune is speaking to an assembly of the people, let no one contradict or interrupt him. If any one violate this law, let him give security to the tribunes, to pay the fine to which, after trial, they shall condemn him. If he refuse, he shall be put to death, and his goods confiscated. If there happen any dispute concerning the fine, the people shall decide it<sup>3</sup>."

Year of  
R O M E  
CCLXI.  
Bef. J. C.  
Four hundred  
ninety-one.

  
Eighteenth  
Consulship.

<sup>3</sup> Mr. Vertot and Mr. Rollin seem to have wholly misunderstood this passage of Dionysius's History. To conform their narrations to their own ideas of his meaning, they have altered the words, which he puts into the mouth of Brutus, interrogating the consuls. They make Brutus's question relate only to the negotiations on foot at the time of the secession, "Whether it was not granted to the people, that during those negotiations, the managers for the people should have liberty to confer with them, without being molested by the patricians?" And the latter part of Geganius's answer, where he says, that "if the tribunes had convened the assembly then present, he would not have interrupted it, nor have come to hear what passed," they impute to the consul's hastiness, and his not foreseeing the consequences (of which inconsiderateness Dionysius says nothing). And they suppose that, by the new law, of which Brutus was the projector, the tribunes acquired the power of convening the people, and presiding in the assemblies by them convened, and that this was the great point now gained. \* "La nouvelle loi dont il s'agit

\* Roll. Hist. Rom. Vol. I. p. 496.

Year of  
R O M E  
CCLXI.  
Bef. J. C.  
Four hun-  
dred nine-  
ty-one.

Eighteenth  
Consulship.

As soon as the tribunes had got the law passed, they dismissed the assembly.

donne beaucoup plus d'étendue à la fonction des tribuns que la voie de simple opposition.—Cette loi leur donne expressement le pouvoir de convoquer les assemblées du peuple et d'y presider.”

Mons. Rollin, that the law may the better square with his notion, makes it run thus, “In the assemblies of the people, HELD BY THE TRIBUNES, let no one contradict them, &c.” Now the words, ‘held by the tribunes,’ are not in the law; and we may observe, that the pretence for making the law was the tribunes having been hindered the day before from speaking in an assembly, HELD BY THE CONSULS. And there is not, in the law, one word of convening or presiding. And it appears, I think, very plainly, from the concession, made by the consul Geganius to Brutus, in their dispute, that the tribunes, by the treaty of re-union on the Mons Sacer, were to have the privilege of convening the people as often as they pleased, and conferring with them, without being exposed to any molestation from the patricians. And the tribune Icilius speaks of this as a right belonging to them, and of which the patricians intended to deprive them: and what he urges upon the people is, to secure to the tribunes, by a new law, the undisturbed exercise of their undoubted right of speaking to the people assembled. It is probable, that when this right was first granted, there was no penalty laid on those who contradicted or interrupted the tribunes when speaking to the people; and in this respect therefore the present law had something new; and it seems likewise to extend the privilege of the tribunes to ALL assemblies of the people by whomsoever called. But I should think, that the principal point gained by Brutus, on this occasion, was not any thing contained in the new law, but was rather his engaging THE PEOPLE to assume power of making laws, TRIBUNO ROGANTE (at the motion of a tribune). (The people were not accustomed to pass any thing into a law but what was proposed to them by the senate, or the patrician magistrates.) Brutus had promised, not only to show the TRIBUNES the prerogatives of their office, but likewise to show the PEOPLE the extent of their power; and his meaning could not be that he would show them they had a title to



This transaction was followed by many disputes and altercations between the consuls and

powers which nobody disputed. In pursuance of this promise, he persuaded them (as appears by the event) that they had a right to enact laws, without any previous recommendation or approbation of them by the senate or consuls, and at the sole request of the tribunes. The tribunes had hitherto held only *concilia*, councils, for conferring with the plebeians, but they now turned these *concilia* into *comitia*, for making laws. This was a matter of great importance, extremely diminishing the authority of the senate, and augmenting that of the people and their plebeian magistrates.

It would seem that Brutus and the tribunes raised that quarrel, which they had the day before with the consuls, on purpose to bring about this design. They rudely interrupted the consuls when speaking, that they themselves might be interrupted, and so have a pretext for complaining of ill treatment; and might by that complaint engage the people to make a law in favour of their tribunes, at the motion of their tribunes. And Brutus in this proceeding seems to have had a particular view to the affair of supplying the city with provisions; which was the great business then in hand, what the people were most intent upon, and in which the confident promises of Brutus had made the poor citizens hope some notable assistance from him. One of Brutus's views I say, in engaging the people to act independently of the senate, was, that in case the senate did not take such measures with regard to provisions, as the necessities of the people required, and the tribunes approved, the people and their tribunes might, by their own authority, regulate that matter according to their own desire. And we shall presently find them threatening the senate to exercise this authority.

It may be proper to observe, that though the new law abovementioned is here considered as the first *PLEBISCITUM*, or law made by the people, *tribuno rogante*, yet we have seen, that Brutus, as soon as he was created tribune, acted the legislator in form, when, on the Mons Sacer, that law was made, which declared the persons of the tribunes *sacrosanct*. He is represented as convening the people,

Year of  
R O M E  
CCLXI.  
Bef. J. C.  
Four hundred  
ninety-one.

Eighteenth  
Consulship.  
D. Hal. B.  
7. p. 432.

Year of  
R O M E  
CCLXI.  
Bef. J. C.  
Four hun-  
dred nine-  
ty-one.

Eighteenth  
Consulship.

the tribunes, on various matters. The senate would not approve the plebiscita of the commons, nor would the commons confirm the decrees of the senate. Each party kept itself upon its guard against the other. But these mutual jealousies and oppositions produced none of those mischievous effects, which are the usual consequences of civil dissension. The indigent plebeians (pacified probably by the late enlargement of their own authority and that of their tribunes) did not break open the houses of the rich patricians to search for hidden provisions; nor did they seize by violence what was brought from abroad to the markets; but contentedly purchased very small matters at high prices; and, when their money failed, feeding on roots and herbs, gathered in the fields, bore the famine with patience. Nor did the rich patricians, on the other hand, take advantage of the superior strength they had, by means of their numerous clients and domestics, to fall upon the poor, enfeebled by hunger, slaying one part of them, and driving the other out of the city; but endured their offences (says Dionysius) with that gentleness and benevolence of mind, which prudent and indulgent fathers exercise towards their children.

and proposing the law to the assembly. But perhaps, as, at that time, all transactions were irregular, this was not looked upon as a precedent which could authorize an imitation of it, when things were settled; and this might be the motive to Brutus and the tribunes to take such precautions for preventing opposition from the consuls in the affair of the new law; in the very making of which the prerogative of law-making, independently of the senate, was assumed by the people and their tribunes.

During this distress of the Roman people, several of the neighbouring states invited them to come, as many as pleased, and settle in their territories, where they should be admitted to all the privileges of the natives. These invitations were made by some from good-will and commiseration; by others from jealousy of the former prosperity of the republic. Many Roman citizens accepted the offer, and removed from Rome with their families; and of these one part never returned, but the rest came back when the republic had recovered its tranquillity.

The consuls observing these migrations, resolved, with the approbation of the senate, to raise an army, and lead it into the field. Some incursions, which the Volsci had made on the Roman territories, furnished a fair pretext for this measure, and it was hoped, that the unanimity, which generally reigns among fellow-soldiers in the same camp, would take place of that animosity between the patricians and plebeians, which was not yet extinguished; and, at least, one advantage was sure to follow from the expedition, that the troops, destined for the campaign, would find bread in the enemy's country, and thereby lessen the distress in their own.

Nevertheless, the people, insensible to all these reasons, and dissuaded by their tribunes, would not give their names to be enrolled; and the consuls thought it not advisable to put the laws in force, to constrain them. An army of volunteers was formed of patricians

Year of  
R O M E  
CCLXI.  
Bef. J. C.  
Four hun-  
dred nine-  
ty-one.

Eighteenth  
Consulship.

D. Hal. B.  
7. p. 433.

Plut. in  
Coriol.  
p. 219.



Year of  
R O M E  
CCLXI.  
Bel. J. C.  
Four hun-  
dred nine-  
ty-one.

Eighteenth  
Consulship.

only with their clients, strengthened by some few of the plebeians, who joined them just before their marching from Rome. These were allured to the service by the perfect confidence they had of success; a confidence founded on the experienced bravery and abilities of Caius Marcius Coriolanus, whom they were to have for their commander. The army advanced to the very gates of Antium, ravaged all the country about it, and brought from thence slaves, cattle, and corn, in great abundance. Coriolanus reserved no part of the booty for himself, but shared it all among the soldiers, who returned to Rome loaded with provisions. And then those of the people who had refused to serve, murmured at their tribunes for having diverted them from following so successful a leader.

## CHAP. IX.

*I. Plenty of corn being brought to Rome from Sicily, fresh disputes arise in the senate about the distribution of it. Coriolanus is for taking advantage of the people's distress to get the tribuneship abolished. The younger senators applaud the motion. II. The tribunes who had been present at this debate go away in a fury, and stir up the people to revenge. They cite Coriolanus to appear before them. He refuses. They endeavour to seize him as he comes out of the senate-house, but are repulsed by those who attend him. The consuls appease the tumult. III. Early the next morning the tribunes hold an assembly of the people on this affair. Minucius the consul, by gentle words, disposes the multitude to peace; but Coriolanus spoils all by a fresh declaration of the same sentiments which had before offended them. The tribunes condemn him to death. The patricians oppose the execution of this rash sentence, and the people seem not to*

*approve it. The tribunes therefore resolve to prosecute Coriolanus in a legal way, and to convene the people by tribes for his trial. The assembly is adjourned.*

I. IN the following consulship of M. Minucius and A. Sempronius, plenty succeeding to the famine gave birth to new commotions at Rome.

These magistrates took effectual care to store the public magazines with provisions, both from the maritime towns of Italy, and from the inland countries. About the same time the commissioners, whom the senate had employed to go into Sicily, returned with a great number of ships laden with corn. Gelo, tyrant of Syracuse, had made a present of one half of it, and the commissioners had bought the other very cheap with the public money: the question now arose in the senate, what price to set upon it; and the tribunes were called into the assembly, to give their opinion. Those of the senators who had no views, but to restore a perfect intelligence between the people and the senate, were for distributing gratis, among the poor, that corn which they owed to the liberality of the public treasure. But when it came to Coriolanus's turn to speak, this senator, to whom the institution of the tribuneship was odious, maintained, that such a condescension in the senate to the people would only encourage them in their insolence; that there was no keeping them to their duty any longer than they were in indigence, and that the time was now come to avenge the majesty of the senate, violated by a seditious rabble,

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.

Nineteenth  
Consulship.

D. Hal. B.  
7. p. 433.

p. 434.



Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

Plut. Life  
of Coriol.  
p. 214, 215.

whose leaders, by an additional crime, had extorted dignities for themselves, as a reward for their rebellion. It was thus that he declared himself in the very presence of the tribunes.

But before we proceed to the consequences of this affair, it will be proper to give some further knowledge of a man who is to act so great a part in this period of our history.

Caius Marcius Coriolanus was descended from one of the most illustrious patrician families in Rome: he received the surname of Coriolanus, as was before observed, for having taken, sword in hand, Corioli, one of the chief towns of the Volsci. Having, in his infancy, lost his father, he was educated by his mother, Veturia; for whom (as Plutarch tells us) he conceived so high a respect, and so tender a regard, that though no man was ever more ardent in the pursuit of glory, yet glory, itself the ultimate end of other men in their noblest actions, was by him coveted chiefly as a means to create delight and satisfaction to his mother. Happily disposed by nature, and virtuously educated, he kept himself master of those passions by which young men are usually enslaved; and so great an abhorrence he had of vice, that to be innocent, or to avoid injustice from the necessity which the laws imposed, or from fear of punishment, he reckoned not as virtue. He was frugal, disinterested, a contemner of riches, patient of hardships and fatigue; and never were these excellent qualities accompanied with a more exalted courage, or a greater capacity for the art of war; he seemed to have



been born a general; but he was harsh and imperious in command; as severe to other men as to himself; a generous friend, an implacable enemy; too haughty for a republic. Though ambitious to the highest dignities, he neglected those arts of management and insinuation so necessary to obtain them in a state founded upon equality and freedom. He had stood for the consulship at the last elections, and most of the senators, with a crowd of other patricians, had appeared for him. But this very recommendation of him by the great proved the hindrance to his promotion. For the tribunes, who dreaded the extraordinary courage and firmness of Coriolanus, represented the earnest solicitations of so many nobles as a kind of conspiracy against the plebeians; and thereby engaged the latter, though they had come to the assembly well disposed in his favour, to refuse him their voices. Of this refusal he conceived the sharpest resentment, as he evidently showed on the present occasion. He said in full senate, "If the people expect to have provisions at a low price, let them restore to the senate its ancient rights. Why must I behold plebeian magistrates in Rome? I, who could not endure Tarquin upon the throne, shall I suffer a Sicinnius to reign? let him succeed once more with his plebeians. The way is open to the Mons Sacer, and to the other hills. Let them pillage our fields as they did three years ago, and live upon the crops they find there, the rich harvests their madness has occasioned. When tamed by hunger, they will

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.

Nineteenth  
Consulship.  
D. Hal. B.  
7. p. 434.  
Plut. in  
Coriol.  
p. 220.

Livy, B. 2.  
c. 34.

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

D. Hal. B.  
7. p. 437.  
Plut. in  
Coriol.  
p. 221.

be more disposed (if I mistake not) to cultivate the lands, than, by a new secession in arms, to hinder them from being cultivated.”

The popular and pacific men of the senate extremely disliked this passionate and haughty speech ; and declared, that it was more like the ravings of a madman, than the counsel of a wise politician. On the other hand, almost all the young senators, with the rich and the ambitious of the elder, gave it the highest commendation. The majority of the assembly were for abolishing the tribuneship, and re-establishing the government upon its ancient foundations.

II. THE tribunes, who (as was said before) had been called into the senate, broke out into the extremest passion of rage, when they saw how things went. To loud complaints and reproaches, they added the sharpest invectives against Coriolanus, whom they styled an incendiary, and the pest of the republic ; and they threatened, that if the senate did not condemn him to death or banishment, they would do it themselves. Coriolanus, on the other hand, threatened them, that if they did not cease their insolence, he would find means, more effectual than words, to repress it. Most of the senate taking part with Coriolanus, the tribunes went out in the greatest fury, invoking the gods, the revengers of perjury, to witness the solemn oaths by which the senate had authorized the establishment of the tribuneship. They assembled the people tumultuously, and cried aloud to them, that the patricians had made a



league to destroy them, their wives and children, unless they delivered their tribunes chained into the hands of Coriolanus, a new tyrant rising up in the republic; and they sent him a summons to come and answer for his behaviour before the assembly of the people.

Coriolanus, naturally haughty and resolute, having contemptuously sent back their officer, the tribunes immediately went with a strong party of the most daring of the plebeians, and waited for him at the door of the senate, in order to seize him when he should come out. They met him, attended as usual with a crowd of his clients, and a great number of young senators, who had a respect for his person, and who thought it an honour to follow his opinion in the senate, and his example in war. The tribunes no sooner saw him, but they ordered Brutus and Icilius, who this year performed the office of ædiles, to lay hold of him, and lead him to prison. But it was not easy to execute such a commission. The patricians, who thought it a most extravagant enterprise of the tribunes, to offer violence to a senator, against whom no process was commenced, resolutely put themselves before him to defend him. They beat back the ædiles with their fists: no other arms were used in those days, in the city, the inhabitants never putting on the sword but when they marched out against the enemy. The tribunes, enraged at this resistance, called the people to their aid; the patricians received fresh succours from their own party, and the tumult increased. But the

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.

Nineteenth  
Consulship.  
Livy, B. 2.  
c. 35.  
D. Hal. B.  
7. p. 438.



Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

consuls at length arrived, and, more by intreaties than authority, prevailed upon both parties to retire.

III. But the tribunes did not stop here; they convened the people early the next morning, inveighed, as usual, against the whole order of the patricians; and then in particular against Coriolanus, enumerating his crimes; the words he had spoken in the senate relating to the corn; his refusal, when summoned, to appear before the people; and his driving away with blows the ædiles, who were sent to arrest him. In conclusion they added, that if the patricians would speak in their own defence, they were at full liberty to do it; and they kept the people together, waiting till the senate should break up. For the fathers were at the same time deliberating, whether they should justify themselves to the people, or silently let things take their course. The former was at length resolved; and the consuls, having dismissed the assembly, repaired to the comitium, to clear the patricians from the charge against them, and to beg the people not to proceed to any harsh resolution against Coriolanus.

D. Hal. B.  
7. p. 439.  
& seq.


Minucius, the first consul, spoke to the following effect. He first complained in general, and with abundance of moderation, of those who caught at the least pretence to raise new disturbances in the republic; and then remonstrated to the people, how very unreasonable it was to accuse the senate and patricians of having caused the dearth, when every body

knew it to have been wholly occasioned by the desertion of the people, and their neglecting to cultivate and sow their lands. He told them, that the other calumnies they so often heard, of the senate's designing to abolish the tribuneship, and to make the whole Roman people perish by famine, were no less extravagant and monstrous. That to put a stop at once to reports so false and injurious, he declared to them, that the senate did again confirm the power of the tribunes; and that as to the corn, they left it entirely to the people to fix what price upon it they themselves thought fit. The consul, after a preamble so well adapted to soften the minds, and gain the good-will of the people, added, by way of a mild reproach, that he could not help blaming them for the precipitation with which they suffered themselves to be carried away by the first reports spread abroad by some particular incendiaries. That it was a strange thing to hear the senate accused as criminal in relation to a matter wherein it had neither done, nor determined any thing, and only because in the debates about it, the members had delivered different opinions. "Remember," said he, "that at the time of your secession on the Mons Sacer, all your intreaties, and even your utmost wishes at first were only to obtain the abolition of the debts. Scarce had you received so great a favour, but you made yourselves a kind of new right, founded on the easiness of the senate, to demand the creation of two plebeian magistrates, whose whole authority, according to

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.

Nineteenth  
Consulship.

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

  
Nineteenth  
Consulship.

your own proposal, was to be confined to the hindering a patrician from oppressing a plebeian: a new grant, for which you returned us the greatest thanks, and which seemed to give you full content. In those times of trouble, even when the sedition was at the highest, you never thought of requiring a diminution of the senate's authority, or an alteration in the form of our government. By what right then do your tribunes now pretend to carry their inspection, and give their censure upon what passes in our deliberations? when till now was a senator ever treated as a criminal, for having spoke his mind freely in the senate? What laws give you authority to demand his banishment or his death? Let us suppose, since you will have it so, that Coriolanus has let slip some words too harsh in delivering his opinion, and that he is accountable to you for this; are you not obliged in equity to forget a few random words that were lost in air, for the sake of his real services, of which you yourselves have reaped all the fruit? Preserve the life of so excellent a citizen, preserve to your country so great a captain; and if you will not acquit him as innocent, at least grant him as criminal to the whole senate, who intreat this favour of you by my mouth. This will be a bond to unite us more closely than ever, and will be a new motive to the senate to continue their goodness towards you: whereas if you persist in your resolution of destroying this senator, perhaps the opposition you may meet with from the patricians may produce calamities



that will make you repent of having pushed your resentment too far."

This discourse made an impression upon the multitude, and brought them to an inclination for peace and union. Sicinnius was surprised and confounded at it; but, dissembling his uneasiness, gave great praises to Minucius and all the senators for having been pleased to condescend so far as to account to the people for their conduct, and for not having disdained to interpose their prayers and good offices in favour of Coriolanus. Then, turning to that senator, he added, in an ironical tone, "And you, excellent citizen, will you not defend to-day before the people that advice so useful to the public, and which you so boldly gave in the senate? or rather, why have you not recourse to the clemency of the Roman people? for I would not advise you to deny a fact, of which there are so many witnesses, nor impudently attempt to justify it. Coriolanus, I suppose, thinks it below him, in person to ask pardon of the people, though not below the consuls and patricians to ask pardon for him."

The artful tribune spoke in this manner, because he was persuaded that Coriolanus, a man of too lofty a spirit to retract what he had said, or to stoop to supplications, would provoke the people afresh by the haughtiness of his answers. Nor was he deceived in his hopes: for Coriolanus was so far from owning himself guilty, or endeavouring to pacify the people, as Minucius had done, that he quite destroyed the effect of that consul's speech, by an ill-

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.

Nineteenth  
Consulship.  
D. Hal. B.  
7. p. 442.

p. 443.

Plut. in  
Coriol.  
p. 222.

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

timed resoluteness, and by the harshness of his expressions. He inveighed more violently than ever against the tribunes, and declared boldly that the people had no right to judge a senator : that, if any man was offended at what he had said in the senate, he might summon him before the consuls, whom he acknowledged for his legal judges, and before whom he should be always ready to give an account of his conduct. That if he now appeared before an assembly of plebeians, on their citation, it was not to submit himself to their judgment, but to reproach them for their wicked behaviour at the time of the secession, and ever since ; and to exhort them to amend their manners.

D. Hal. B.  
7. p. 444.

The young senators, charmed with his intrepidity, and overjoyed to have a man who durst speak openly what they all thought, cried out, that he had advanced nothing but what was conformable to the laws ; but the people, who saw themselves despised, resolved to make him feel their power. Some were even for killing him instantly ; and the tribunes gave the reins to this fury. Sicinnius, without collecting the voices of the assembly, pronounced sentence of death against him, declaring that it was the sentence of the whole college of tribunes, as a punishment for his insult upon them the day before, in the persons of their ædiles ; and he ordered him to be thrown down from the top of the Tarpeian rock. The ædiles immediately drew near to lay hold of him ; but then all the patricians in the assembly running to his assistance, they placed him in the midst of

Plut.  
p. 222.




them, resolutely determined to oppose force with force. The tumult rose to a great height, and the two parties, from mutual reproaches, came even to blows. At length the consuls throwing themselves into the crowd, and ordering their lictors to disperse it, the tumult and scuffle presently ceased; so great a reverence, says Dionysius, had the multitude in those days for that royal authority which resided in the consuls.

While Sicinnius, much disconcerted at this event, and yet very unwilling to quit his enterprise, was considering what new step to take, Brutus, that able counsellor, ever fruitful in expedients, taking him aside, represented to him, that he must never think of destroying Coriolanus so long as he was guarded by the whole body of the nobility; that even the people had begun to murmur at his pretending to be both judge and party at the same time; that the multitude, who turn in an instant from the most violent fury to sentiments of compassion, looked upon the sentence of death as too rigorous; that in the present disposition of men's minds he would not succeed by ways of violence; and that the most reasonable and unexceptionable method was, to cite Coriolanus to appear in judgment before the people; and he advised him by all means to have their suffrages taken by tribes, where the great and the rich would be mingled with the poor, and every man's voice would be of equal value; whereas in an assembly by centuries, the rich

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred  
ninety.  
Nineteenth  
Consulship.

D. Hal. B.  
7. p. 445.



Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.  
  
Nineteenth  
Consulship.

patricians might carry their point against a majority of the citizens.

Sicinnius seeing no better way to extricate himself out of his perplexity, resolved to follow his friend's advice. Addressing himself to the people, "You see, Romans, that no thanks are due to the patricians, if much blood is not shed this day, and that they are ready to come to the greatest extremities to rescue the declared enemy of the Roman people out of the hands of justice. Let us set them an example of more moderation. Some, to screen the delinquent, have cited the law which forbids the putting any man to death, before a formal trial and condemnation. Let us admit this plea, though they act not legally towards us. Return home now, and wait a more favourable opportunity to do yourselves right. You will not wait long. As for us, when we have regulated some affairs more pressing, we shall appoint a day for Marcius to appear before you. In the meantime, as to what regards the price and distribution of the corn, if the senate do not take proper care of that matter, the tribunes will give directions about it themselves." Having thus spoken, he dismissed the assembly.

## CHAP. X.

*I. The consuls endeavour by remonstrances to allay the heat of the tribunes, and bring them to conform to the ancient usages, which did not allow the people to take cognizance of any affair till it was referred to them by a decree of the senate. The tribunes consent to observe this rule, and desire they may be heard by the fathers in relation to their charge against Coriolanus. II. The tribune Decius makes a long speech in the senate, inveighing bitterly against the accused, and contending for the people's right to judge him. III. Appius Claudius in very strong terms opposes this pretension. IV. But Valerius, in terms no less strong, urges the expediency of the senate's compliance. He exhorts Coriolanus, in the most pathetic manner, to submit himself to the people's judgment; and he adds a discourse in behalf of a balance of power between the patricians and plebeians. V. It is carried by a majority of votes that Coriolanus shall be tried by the people. Coriolanus having assurances given him, that the accuser's charge shall be confined to the single crime of tyranny, consents to the drawing up of the decree. A day for the trial is appointed.*

**I. THE** consuls, having soon after assembled the senate, to deliberate on means for appeasing the present troubles, it was resolved, that they should endeavour to soothe the plebeians, by selling the corn to them at the lowest price it had ever been at before the secession; and likewise to engage the tribunes, for the senate's sake, either to drop the prosecution against Coriolanus entirely, or at least to defer it for a considerable time, during which, the passions of the people might happily subside. The decree about the corn, when published, was universally well received and ratified: but the tribunes could not be prevailed upon, with regard to the trial, to grant any thing more

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.  
Nineteenth  
Consulship.  
D. Hal. B.  
7. p. 445.

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

than the delay requested. A further delay was occasioned by some acts of hostility committed by the Antiates, which called the Romans into the field. But those enemies readily submitting, the troops in a short time returned home: and as soon as they were disbanded, Sicinnius called an assembly of the people, and named to them a day for Coriolanus's trial. He invited all the inhabitants of the city to be present at it, and ordered those who dwelt in the country to quit their work, and punctually repair to the assembly, that they might give their votes in an affair which concerned the liberty and safety of the whole state. And he likewise sent notice to Coriolanus to appear there, and answer for his conduct; assuring him, that he should have justice done him in all its forms.

D. Hal. B.  
7. p. 447.

Great was the solicitude of the senate, to put a stop, if possible, to this proceeding. The consuls, not despairing to overcome the obstinacy of the tribunes, entered into conference with them upon the affair of the accused. Minucius put them in mind, that it was contrary to established custom, to refer any affair to the people, before it had passed the judgment of the senate: that the kings themselves had always had this deference for that august body. He exhorted them to conform to the usage of their ancestors, and, if they had any considerable grievances to lay to the charge of Coriolanus, to apply themselves to the senate, who, according to the nature of the crime, and the solidity of the proofs, would refer it by a




*senatus-consultum* to the judgment of the people; who then, and not till then, would have a right to try a citizen.

Sicinnius clamoured against this proposal, declaring that he would never suffer the authority of the Roman people to be restrained and directed by a *senatus-consultum*. His colleagues, however, were more tractable. By the advice of Decius, they consented that the senate should first make a decree upon the affair; a complaisance, that with regard to the present case was of little moment, because they had doubtless taken a firm resolution, if the *senatus-consultum* were not such as they desired, to appeal from it to the assembly of the people, and for so doing to make the *Lex Valeria* their foundation of right; so that in reality the only question was, whether the affair should be carried before the people in the first or second instance.

When the tribunes consented to let the conscript fathers decree (as usual) whether the commons should take cognizance of the matter depending, they demanded, in return, that not only they themselves, who by their office were protectors of the people, might be heard in the senate, but any citizen, who would support the reasons of the tribunes, or oppose them; and they further insisted, that the senators should be all sworn, as judges used to be, to give their sentence according to truth and equity; and that a decree should be made conformable to the opinion of the plurality. To these conditions the consuls agreed.

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.

Nineteenth  
Consulship.


Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.  
  
Nineteenth  
Consulship.  
D. Hal. B.  
7. p. 443.  
& seq.

II. THE tribunes were the next day introduced into the senate. Decius, though a young man, was their speaker, an honour yielded to him, doubtless, because of his eloquence, and the readiness with which he expressed himself in public: "You are not ignorant, conscript fathers, of what might happen to us, if a certain colleague of ours, who disapproves our coming hither to ask from you, as a favour, that power, to which by the laws we have a right, should bring us into judgment before the people for this proceeding: we should doubtless be condemned, as deserters and betrayers of our trust, to the most ignominious punishments. Nevertheless, confiding in the justice of our cause, and the sincerity of your oaths, we have ventured to come. And though we are inconsiderable men, little qualified to speak in a manner suitable to the importance of the subject, yet as the subject is so highly important, we doubt not but this will be sufficient to engage your attention to our words. And if that which we are going to demand shall appear to you to be just and useful to the republic, and even necessary to its welfare, we hope that you will readily, and without hesitation, comply with our request.

"When you, conscript fathers, having, by our assistance, expelled kings, and established the present form of government, (of which we do not complain) came to remark, that the plebeians, in all controversies which they afterwards had with patricians, were constantly worsted, you, by the advice of Valerius

Poplicola, made a law, that any plebeian, who suffered violence and injustice from the patricians, might bring his cause before the people. And nothing contributed more than this law to the maintaining that union among the citizens, which enabled them to defeat the many attempts of Tarquin to reascend the throne. It is in virtue of this law that we, the tribunes, now cite Caius Marcius before the tribunal of the people, to answer for the violence and injuries we have all suffered from him. And what need can there be of a previous *senatus-consultum* for this prosecution? In matters concerning which there are no laws enacted, you have a power to make decrees, which the people, if they please, may confirm by their suffrages. But in cases provided for by an inviolable law, actually subsisting, we may certainly make use of this law, without waiting for a previous decree of consent from you. Will any one say, that every private citizen has the privilege of appealing to the people from an unjust sentence, but that we, the tribunes, have not the same privilege?

“With regard to natural rights, the unwritten laws of nature, we think it just, that the plebeians should be upon an equal foot with you. The honours, dignities, magistracies of the state, we readily yield to those of your order, who are most eminent for merit and riches. But not to suffer injuries, and, if any person do them, to bring them to condign punishment, we judge these to be rights common to all the citizens. And, in this respect, we will not

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.  
  
Nineteenth  
Consulship.



Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

suffer the equality between the two orders to be destroyed. So much for the question of right.

“ If it be asked, whether the granting what we now demand will be for the interest of the republic, there is surely no man, who considers, that discord is the greatest evil that can happen to a state, but must answer in the affirmative. I will suppose that it was against your inclination, and was neither for the honour, nor the particular advantage of your order, to make us those concessions, which we obtained from you on the Mons Sacer. Yet as you have made them, and are bound by the most solemn oaths, never to violate the articles of our treaty, what consequences can you expect from your infraction of them, but a new revolt, and a civil war? And what hope can there be of preserving that domestic peace which was then effected, if you refuse the people, assembled by tribes, the power of judging a private citizen, who not only has himself violated our convention, by insulting the tribunes in the persons of their officers, but has had the insolence to exhort you in full senate, entirely to abolish the tribuneship, the strongest bulwark of our liberty, and principal bond of our reunion? Nor is this the worst of his crimes. You remember it well, conscript fathers, he audaciously told you, that the fortunate moment was come for revenging yourselves upon the people; he would have had you keep up the high price of provisions, that you might thereby force one part of the poor plebeians to fly


their country, and reduce the other, miserably to perish by hunger. Cruel and unthinking man! did he not consider that this people, whom he meant to exterminate with so much inhumanity, and who are more numerous and powerful than he could wish, being reduced to despair, would have broken into the houses of the rich, forced open those granaries and secret repositories which conceal so much wealth, and either have fallen under the power of the patricians, or effectually rooted out that whole order? Could he imagine that an enraged populace would in such a case have hearkened to any law but what was dictated by necessity and resentment?

“For, that you may not be ignorant of the truth, we would not have perished by a famine brought upon us by our enemies; but, having first invoked the gods, revengers of injustice, filled Rome with blood and slaughter. Such had been the fatal consequence of the counsels of that perfidious citizen, if some senators, better friends to their country, had not hindered them from taking effect. To you, conscript fathers, we address our just complaints. To your aid, and to the wisdom of your decrees, we have recourse, to oblige this public enemy to appear before the whole Roman people, and answer for his conduct. It is there, Coriolanus, that thou must defend thy counsels, if thou darest so to do, or excuse them as proceeding from want of thought: take my advice; leave thy haughty and tyrannical maxims; make thyself less; become like us: nay put on a

Year of  
B. O. M. E.  
CCLXII.  
Bef. J. C.  
Four hundred ninety.

Nineteenth  
Consulship.

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

  
Nineteenth  
Consulship.

D. Hal. B.  
7. p. 453.

habit of mourning, suit thyself to thy present fortune, implore the pity of thy fellow-citizens; perhaps thou mayest obtain their favour, and the forgiveness of thy faults.”

When Decius and his colleagues had said all they thought proper to say, the consuls asked the opinion of the assembly: they began with the consulars and the oldest senators; for in those days, says Dionysius, the young senators were not so presumptuous as to think themselves capable of instructing their seniors. Modest and reserved, and not daring to speak, they only gave their opinion by some sign, or by walking over to that side which they thought to be most in the right. It was from this respectful way of declaring their minds, that they were called *Senatores Pedarii* (from the Latin *pes*, a foot): thus it was a common saying, that a pedarian opinion was like a head without a tongue.

III. APPIUS CLAUDIUS, when called upon for his opinion, spoke to this effect: “You know, conscript fathers, that I have long opposed, and frequently alone, that too great easiness with which you grant the people whatever they demand. Perhaps I made myself troublesome, when I so frankly laid before you the misfortunes which I presaged would follow from our reunion with the deserters from the commonwealth. The event, however, has but too well justified my apprehensions. The people take advantage of your favours to ruin your authority; you cannot but see that there is a design to change the form of our government. At



first the only demand was the abolition of the debts; and this people who are now so haughty, and who endeavour to make themselves the sole judges of the senators, then thought they stood in need of a pardon, for the disrespectful manner in which they sued for that first concession.

“Your easiness gave occasion to new pretensions; the plebeians would have their particular magistrates. You know how earnestly I opposed this innovation; but you assented in this point also: you allowed the annual creation of tribunes, that is to say, ringleaders of sedition. Not content with this, the people would have the persons of their tribunes declared sacred and inviolable, made secure by the most solemn oaths; privileges never granted even to the consuls: yet you, conscript fathers, suffered this usurpation too, and swore upon the altars the destruction of yourselves and your posterity. What has been the fruit of all these favours? They have only served to encourage the people to further incroachments upon your authority. They make laws without previously consulting you, and even contrary to your will. They despise the decrees of the senate, accuse the consuls of mal-administration, and, if any extraordinary adversity happens, which human prudence could not foresee, they impute it, not to fortune, but to our malice. They pretend, that we form plots to deprive them of their liberty, or drive them out of their country; and under this pretext they are ever conspiring against us, as if they knew no way of preserving themselves, but by

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.  
Nineteenth  
Consulship.

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

our destruction. Too many of their actions, which are fresh in your minds, evidently discover this design; but especially their late attempt, without any the least form of justice, to take away the life of that great captain, and most worthy citizen, Caius Marcius, on pretence that he gave bad counsels in our assembly. If the consuls and most respectable senators had not united to stop their fury, we had all in one day been deprived of our dignities, our power, and our liberty.

“The resolution, and courage, which you showed upon this last occasion, in some measure awakened these madmen from their drunken fit. They seem now to be ashamed of a crime which they could not accomplish; they desist from violent methods, because they have found them unsuccessful; and they seemingly have recourse to justice, and the rules of law.

“But what is the justice, immortal gods! which these men would introduce? they endeavour, by appearances of submission, to obtain from you a *senatus-consultum*, which may give them power, not to try, but in truth, to drag to execution the best citizen of Rome. They allege the *Lex Valeria* as the rule of your conduct: but does not every body know, that this law, which allows of appeals to the assembly of the people, was not a law made against the patricians, but only for the relief of such poor plebeians as might happen to be oppressed by the great? And when you afterwards consented to the creation of the tribunes, neither you, nor even the people them-

selves, intended any thing more in the establishment of those new magistrates, than that this law might have protectors, and the poor be provided with advocates. The treaty of reunion gave no power to the people to try patricians at their tribunal. No, the Valerian Law is what they insist upon. Well then, during eighteen years that it has been in force, let Decius give me one single instance of a patrician called in judgment before the people by virtue of that law, and our dispute will be at an end. There is no such precedent. If Marcius, or any other patrician, has so offended the people, as to be thought worthy of death or banishment, let him be tried; not in an assembly of plebeians, but here, in this assembly; and let him be punished as the law directs. For can it be supposed that the plebeians will be impartial in their own cause, and, when they come to give their votes, be under no influence from prejudice against a patrician whom they consider as their enemy? It is my advice, conscript fathers, that, before you come to any determination, you maturely consider, that in this affair your interests are inseparable from those of Coriolanus: as for the favours you have already granted the people, I am not for revoking them, by whatever means they were obtained; but I cannot forbear exhorting you to refuse resolutely what they now demand, or may hereafter demand, inconsistent with your own authority, and the present form of our government."

IV. MANIUS VALERIUS, that popular senator who had been so serviceable in the treaty upon

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.

Nineteenth  
Consulship.

D. Hal. B.  
7. p. 459.  
& seq.



Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

the Mons Sacer, spoke next after Appius, and, in a studied harangue, took the part of the people. Having first said something in general, in the style of invective, against those who fomented discord between the two orders in the state, he proceeded to the affair of Coriolanus, and declared himself for granting to the people what they desired. He said, that nothing was more likely to disarm the people's rage against the illustrious patrician accused, than to leave him to their judgment: that the multitude calling to mind his personal merit, and full of gratitude for the senate's ready compliance with their desires, would certainly absolve him: that, nevertheless, to appease them entirely he would have all the senators disperse themselves in the assembly, and each endeavour, by a gentle and popular behaviour, to win over those of the plebeians with whom he was acquainted.

Valerius then turning to Coriolanus, conjured him in the most affecting manner to give peace to the republic: "Go, Coriolanus, offer yourself generously to the people's judgment; this is the only way of justifying yourself, that is worthy of you; this is the surest means to silence those who accuse you of aiming at the tyranny. If you persist in showing a contempt for that tribunal, and in disowning its jurisdiction, to you alone will be imputed all the evils that shall be consequent to such an obstinate and proud behaviour. Are you desirous that the senate, your zealous friends, should, for your sake alone, engage in a contest with the people, where a defeat must be fatal to

them, and even a victory would be shameful? Set before your eyes the frightful image of a civil war; the laws without force; the magistrates without power; fury and violence reigning universally; fire and sword gleaming on all sides; your fellow-citizens murdering each other; Rome sinking under the rage of the two parties, and buried beneath its own ruins."

Valerius, who sincerely loved his country, and was softened by the idea of these great calamities, could not restrain his tears; and the tears of so venerable a consular, more eloquent than even his discourse, touched the greater part of the senators, and disposed their minds to peace.

Then Valerius, finding that he was master of the assembly, raised his voice, and, as if he had got fresh strength, or were become another man, showed himself undisguised, and spoke to them with that authority which his age and long experience in affairs gave him: "We are made to fear, that the public liberty will be in danger, if we grant so much power to the people, and allow them to try those of our order who shall be accused by the tribunes. I am persuaded, on the contrary, that nothing is more likely to preserve it. The republic consists of two orders, patricians and plebeians: the question is, which of these two orders may more safely be trusted with the guardianship of that sacred depositum, our liberty. I maintain that it will be more secure in the hands of the people, who desire only not to be oppressed,

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.  
Nineteenth  
Consulship.

D. Hal. B.  
7. p. 460.

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

than in those of the nobles, who all have a violent thirst of dominion. The nobles, invested with the prime magistracies, distinguished by their birth, their wealth, and their honours, will always be powerful enough to hold the people to their duty : and the people, when they have the authority of the laws, being naturally haters and jealous of all enormous power, will watch over the actions of the great, and, by the dread of a popular inquiry and judgment, keep a check upon the ambition of such patricians, as might be tempted to aspire to the tyranny. You abolished the royalty, conscript fathers, because the power of a single man grew exorbitant. Not satisfied with dividing the regal authority between two annual magistrates, you gave them a council of three hundred senators to be inspectors over their conduct, and moderators of their empire. But this very senate, so formidable to the kings and to the consuls, has nothing in the republic to balance its power. I know very well, that hitherto there is all the reason in the world to applaud its moderation. But who can say, whether we are not obliged for this to our fear of enemies abroad, and to those continual wars which we have been forced to maintain? Who will be answerable, that our successors, growing more haughty and more potent by a long peace, shall not make attempts upon the liberty of their country, and that in the senate there shall not arise some strong faction, whose leader will find means to become the tyrant of Rome, if there be not, at the



same time, some other power, out of the senate, to withstand such ambitious enterprises, by impeaching the authors and abettors of them before the people?

“ Perhaps it will be said, that the like inconvenience is to be apprehended from the people, and that it is impossible, by any provision, to assure ourselves, that there shall not rise among the plebeians some popular man, who will abuse his influence over the minds of the multitude, and, under the pretence of defending the people’s interests, in the end invade both their liberty and that of the senate. But you well know, that upon the least danger which the republic may seem to be in, from that quarter, our consuls have the privilege to name a dictator, whom they will never choose but from among your own body; and that this supreme magistrate, absolute master of the lives of his fellow-citizens, is able, by his sole authority, to dissipate a popular faction. The wisdom of our laws has allowed him that formidable power but for six months, for fear he should abuse it, and employ, in the establishment of his own tyranny, an authority intrusted with him only to prevent the usurpations of other men.

“ Thus with a mutual inspection the senate will be watchful over the behaviour of the consuls, the people over that of the senate; and the dictator, when the state of affairs requires the intervention of such a magistrate, will curb the ambition of all.

“ If, conscript fathers, what I have said, concerning a balance of power, be reasonable,

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.

Nineteenth  
Consulship.

Year of  
R O M E  
CCLXII.  
P. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

refuse not to the people their present demand. They annually create the magistrates of the commonwealth; they enact laws; they abrogate laws; they make peace; they declare war: the senate has never pretended to be absolute master in these points; which nevertheless are, of all, the most important to the state. While you recognize in the people those high prerogatives I have mentioned, how can you think of denying them the permission to try a private citizen, who is accused of exciting sedition, and aspiring to the tyranny? The more you intimidate the violators of our laws, and the corrupters of our manners, by the many inspectors you establish to watch the conduct of covetous and ambitious men, the more secure will be our liberty, and the more perfect our constitution."

D. Hal. B.  
7. p. 462.

Almost all the senators, who spoke after Valerius, agreed with him in opinion; and, in conclusion, it was carried by a great majority to refer the cause in question to the judgment of the people.

V. BEFORE the decree was drawn up, Coriolanus, who found the senate were deserting him, desired leave to speak; and having obtained it, he said, "You know, conscript fathers, what the whole course of my life has hitherto been. You know that this unjust persecution which I now suffer from the people, is occasioned only by the steady and unalterable zeal which I have always shown for your interests. I shall say nothing of the return I now meet with; the event will show the weakness, and perhaps

the malice of the counsels given you in this affair. But since Valerius's opinion has at length prevailed, let me know at least what is the crime I am charged with, and upon what conditions I am delivered over to the fury of my adversaries."

Coriolanus said this, in order to draw the tribunes into a confession, that they had no crime to accuse him of, but the speech he had made in the senate. That speech was doubtless the sole or principal cause of their rage against him. However, that they might not be obliged to confine their charge to one fact only, and a fact, which, to treat as a crime, must naturally engage the whole body of the senate in his defence, they, after conferring together, declared in general, that they would accuse him of aspiring to the tyranny.

Coriolanus instantly replied, "If that be the charge I am to answer to, I freely submit myself to the judgment of the people; let the senate's decree be put in writing."

The senate, for two reasons, were very well pleased that the affair took this turn: first, because no attack was to be made on the freedom of speaking in their assemblies; and in the second place, because Coriolanus, having always observed an irreproachable conduct, with regard to the crime undertaken to be proved upon him, they doubted not but he would easily clear himself at his trial.

All the parties being thus far agreed, and the decree drawn up, the cause (as custom required) was appointed to be heard on the day

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.  
Nineteenth  
Consulship.  
D. Hal. B.  
7. p. 462.

p. 463.

Plut. p. 223.



Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

after the third market day; that is to say, twenty-seven days were allowed to the accused to prepare his defence: for these markets were held every ninth day, when the country people came to the city, to vend their commodities, and make up their differences with one another. The tribunes, having assembled the people, read the senate's decree to them, notified the trial, and exhorted all the citizens of the republic, as well those who dwelt in the country as the inhabitants of Rome, to be at the forum on the day appointed for hearing and judging so important a cause. There needed not much eloquence on this occasion. Most of the plebeians waited impatiently for the favourable opportunity to signalize their hatred to Coriolanus; and were as zealous against him, as if the preservation of the commonwealth had depended on his destruction.

## CHAP. XI.

I. *The day being come for Coriolanus's trial, a dispute arises between the consuls and tribunes, whether the people shall give their suffrages by CENTURIES, according to the ancient custom, or by TRIBES, which had never yet been practised. The tribunes, who are for the latter, prevail.* II. *Coriolanus's cause is heard. He is condemned to banishment, and leaves Rome.*

I. WHEN the day came, that the great affair of Coriolanus was to be decided, an innumerable multitude crowded the Forum, betimes in the morning. The tribunes separated them

by tribes, in order to their voting in this cause ; whereas, from the reign of Servius Tullius, the voices had always been gathered by centuries. The consuls being come to the assembly, were for keeping up the ancient custom, not doubting but they could save Coriolanus if the voices were reckoned by centuries, of which the patricians themselves and the richest citizens made the majority<sup>4</sup>. But the tribunes, no less artful, and more resolute, alleged, that in an affair which concerned the rights of the people and the public liberty, it was but just that the vote of every the poorest and meanest citizen, should be of equal weight and value with that of the richest and most noble ; and, after a warm struggle, the tribunes carried their point.

Year of  
R O M E.  
CCLXII.  
Bef. J. C.  
Four hundred ninety.  
Nineteenth  
Consulship.  
D. Hal. B.  
7. p. 464.

Just before they entered upon the cause, Minucius, the first consul, made an harangue to the assembly. He opened his discourse with reminding the people of the affection which the senate had for them, and the favours it had heaped upon them at different times ; and he declared, that all the return the fathers asked, was Coriolanus's discharge. He exhorted the plebeians not to consider so much a few words which had escaped him in the heat of his discourse, as the important services which he had done the commonwealth ; and to be satisfied with his submission to their censure. He intimated to them, that if they acquitted Coriolanus by a plurality of voices, it would be said, to

p. 465.

p. 466.

<sup>4</sup> See this matter fully explained, B. I. c. 7.

Year of  
R O M E  
CCLXII.

Bef. J. C.  
Four hun-  
dred ninety.

Nineteenth  
Consulship.

they had found him innocent ; whereas, if they discharged him without proceeding any further in the prosecution, it would be considered as an act of favour to those who interceded for him. In answer to this, Sicinnius loudly protested, that he would neither betray the liberties of the people, nor suffer any other man to betray them. But that, if the senate did, *bona fide*, submit the accused to the judgment of the people, he should have a fair and impartial trial.

“ Well then, (replied Minucius) since, notwithstanding our entreaties, you obstinately insist that Coriolanus shall be tried by this assembly, I demand that, pursuant to your agreement with the senate, you confine your accusation to the single article of aiming at the tyranny, and that you pretend not to mention any thing, by him said against the people in our assemblies : for you are barred from that, by the conditions expressed in the very decree which refers his cause to the judgment of the people.” To prove what he alleged, he read aloud to them the *senatus-consultum* ; after which, he descended from the *rostra*<sup>5</sup>.

II. SICINNIUS then began the accusation with a laboured speech, which consisted however of only general invectives, importing, that the accused, by the whole tenour of his words and actions against the people, had manifestly dis-

<sup>5</sup> Liberty is taken to use this word for the *suggestum* (or pulpit) or any eminent place; whence we find the magistrates speaking to the people; though the word *rostra* was not introduced till many years after this time.



covered an intention to invade their liberties, and become the tyrant of his country.

As soon as the tribune had done speaking, Coriolanus, with a courage deserving a better fortune, presented himself in the assembly, and answered the calumnies thrown upon his conduct, by a bare recital of his services. He began with his first campaigns; he gave an account of all the engagements in which he had fought, the wounds he had received, the military honours which his generals had bestowed upon him, and the several commands in the army to which he had been gradually promoted. He exposed to the view of the whole people a great many different crowns which he had received, either for mounting the breach first in assaults, or for having first broke into the enemy's camp; or, lastly, for having in various battles saved the lives of a great number of citizens. He called them aloud, each by his name, and cited them as witnesses of what he advanced. These men immediately stood forth, and gave public testimony of the obligations they lay under to him. Stretching out their hands as supplicants, they conjured the assembly not to destroy a man, to whom they owed their lives, and all that was dear to them; and they offered to undergo, in his stead, any punishment to which he should be condemned. As these Romans were mostly plebeians, and men known to have deserved well of their country, the multitude could not resist their pressing solicitations, nor even refrain from tears. Then Coriolanus, tearing away his robe,

Year of  
R O M E  
CCLXII.  
Bef. J. C.  
Four hundred ninety.  
~~~~~  
Nineteenth
Consulship.
D. Hal. B.
7. p. 467.

Year of
R O M E
CCLXII.
Bef. J. C.
Four hun-
dred ninety.

Nineteenth
Consulship.

showed his breast all covered with the scars of a great number of wounds which he had received: "It was to save these worthy men," said he, "it was to rescue these good citizens out of the hands of our enemies, that I have a thousand times ventured my life. Let the tribunes show, if they can, how such actions are consistent with the treacherous designs they lay to my charge. Is it easy to believe, than an enemy of the people, a man who intended to destroy them in a time of peace, would expose himself to so many dangers in war, only to preserve their lives?"

This discourse, supported by a noble air, and that confidence which flows from innocence and truth, made the plebeians quite ashamed of the prosecution. The best men of that order cried out, that they ought to acquit so good a citizen. But then the tribune Decius, alarmed at this change, stood forth, and said: "Though the senate does not allow us to prove the ill designs of Coriolanus, by the speech he made in their assembly, and by his violent proceedings that followed it, we do not want other proofs equally strong and cogent, of his pride, and that spirit of tyranny of which we accuse him. You know that, according to our laws, the spoils of the enemy belong to the Roman people; that neither the soldiers, nor their general himself, has power to dispose of them; but that all ought to be sold, and the money thence arising carried by a quæstor into the public treasury; such is the usage and constitution of our government. Nevertheless

contrary to these laws, which are as ancient as Rome itself, Coriolanus, having got a considerable booty in the territories of the Antiates, divided it all, by his private authority, among his friends, giving them what was the people's due. This I call a proof of tyranny. For indeed what was this, but with the public money to make to himself creatures, and provide guards and supporters of his intended usurpation? He must either deny a notorious fact, and say, that he did not dispose of that booty, or must show that, in disposing of it, he did not violate the laws. Without dazzling us with the splendid show of his crowns and scars, or using any other arts to blind the assembly, let him answer directly to this one article which I urge against him."

It was true, Coriolanus had, by his private authority, disposed of the plunder which the tribune spoke of: but it was not true, that he had divided it among his friends and creatures only, as was objected to him, but among all his soldiers: nor had he done this with a view to the tyranny, or with any evil intention; but to engage his soldiers to follow him the more readily another time, and in hopes that the example of their success would incite the plebeians at Rome voluntarily to take the field, and seek provisions in the enemy's country, at a time when the city was grievously distressed by a famine; and the tribunes opposed all regular levies of soldiers. This was the real fact. But it is probable, that many of the people, who had had no share in that expedition, were

Year of
R O M E
CCLXII.
Ref. J. C.
Four hun-
dred ninety.
Nineteenth
Consulship.

Year of
R O M E
CCLXII.
Bef. J. C.
Four hun-
dred ninety.

Nineteenth
Consulship.

Plut. in
Coriol.
p. 223.

envious of the good fortune of Coriolanus's soldiers; and Decius, perhaps, having observed this, took the present occasion of awakening their envy, and of seducing them thereby to condemn Coriolanus for a generous action, by which they themselves had received no benefit.

As neither Coriolanus, nor any of his friends, had expected this last accusation, they were wholly unprepared with an answer. The tribunes laid hold of this opportunity to collect the suffrages; and Coriolanus was condemned to perpetual banishment. Of the twenty-one tribes, but nine voted for him, and twelve against him.

D. Hal. B.
7. p. 472.
Plut. in
Coriol.
p. 223.

Most of the nobles and patricians thought themselves in a manner condemned to banishment with this great man, who had always been the defender and support of their order. At first it was only a general consternation; but this was quickly succeeded by indignation and rage. Some reproached Valerius, that he had misled the senate by his artful discourses; others reproached themselves for their excess of condescension to the people; all repented that they had not rather endured the last extremities, than abandoned so illustrious a citizen to the insolence of the multitude.

Coriolanus was the only person among the patricians who seemed unconcerned at his disgrace; he left the assembly with the same tranquillity, in appearance, as if he had been acquitted. He went immediately to his own house, where he found his mother Veturia, and Volumnia his wife, all drowned in tears, and in

the first transports of their grief. He exhorted them in few words to bear this reverse of fortune with courage and constancy; and having recommended to them the care of his children, which were yet but infants, he instantly took his leave, not suffering any body to attend him in his exile, except three or four of his clients. A great number of the senators and other patricians accompanied him to the gates of the city; but he said not one word to them by the way, and he parted from them in the same reproachful silence, neither thanking them for any good offices past, nor requesting any future favour⁶.

Year of
R O M E
CCLXII.
Bef. J. C.
Four hun-
dred ninety.
Nineteenth
Consulship.

⁶ Coriolanus was probably about thirty-five years of age at the time of his banishment. He had stood for the consulship the year before, and (according to Plutarch, p. 220) had then served seventeen years. He began to serve as soon as he was of an age to bear arms, that is at seventeen.

CHAP. XII.

I. *The plebeians exult upon the victory they have gained over the patricians in the affair of Coriolanus. The Romans having now no war abroad, nor squabble at home, to employ them, turn their minds wholly to superstition, during the consulship of Q. Sulpicius and Sp. Lartius.* II. *The tribunes, from a particular view, persuade the people, at the next election of consuls, to choose men of little spirit and mean abilities for war. Their choice falls upon C. Julius and P. Pinarius Rufus.* III. *In the meantime, Coriolanus retires privately to Antium, one of the principal cities of the Volsci, discovers himself to Attius Tullus, general of that nation, offers him his service against Rome, and is nobly received by him.* IV. *These two generals concert a stratagem to stir up the Volsci, to renew the war with the Romans.*

Coriolanus is introduced by Tullus into the assembly of the Volscian states, and there makes a speech, which is highly applauded. They resolve upon war, and to commit the conduct of it to Tullus and Coriolanus; but, first, by the advice of the latter, send an embassy to Rome, to make such demands of the republic as they are sure will be rejected. The Volscian ambassadors are dismissed, by the Roman senate, with a haughty answer.

Year of
R O M E
CCLXII.
Bef. J. C.
Four hun-
dred ninety.

Nineteenth
Consulship.

D. Hal. B.
7. p. 470.

I. NEVER did the people testify more joy, not even upon vanquishing the most formidable enemies of Rome, than they did now for the advantage they had just gained over the senate and the whole body of the patricians. By the proceedings in the affair of Coriolanus, the PEOPLE had got a precedent for citing before their tribunal, and judging the most illustrious of the nobles; a precedent which the tribunes failed not to improve into an established custom. And how much soever the ancient dignity of the patrician order was diminished by this innovation, Dionysius is of opinion, that it was a proper curb upon the ambition of the great, and not only salutary to the republic, but even necessary to its preservation: and though some hot-headed tribunes, animated by views of self-interest, or private pique, might now and then abuse their power, by commencing unjust prosecutions, yet those of the nobles, who took upon them the management of public affairs, with honest and patriot intentions, would be in little danger of suffering any disgrace by a sentence of the people.

p. 471.

The same historian, in the close of his relation of what happened at Rome, from the time of the secession to the trial of Coriolanus, very

justly remarks, as more worthy to be admired, than the most shining exploits of the Romans, the rare temper and moderation which appeared in both parties, in their late contentions: that such important changes should be brought about merely by conferences and arguments, and without any of those inhuman and fatal acts of violence, which, on the like occasions, were so common in the states of Greece and Sicily.

During the following consulship of Q. Sulpicius and Sp. Lartius*, superstition alone filled the minds of the Romans. Nothing now was talked of but visions, spectres, miraculous voices, monsters, and prodigies of all sorts. Titus Latinus, or, according to Livy, Tib. Atinius, an old man, and bed-ridden, made himself be conveyed in a litter from the country to Rome, where he related to the conscript fathers a dream, in which he said, Jupiter Capitolinus had appeared to him, and commanded him to tell the senate, "That they must repeat the celebration of the public games, because, in the last performance, a bad dancer had led up the dances. He added, that he having neglected the admonition, Jupiter in revenge had thrown him into the condition he then was, having first killed one of his sons." As fast as the man discharged his commission, so fast he recovered the use of his limbs; and this put the senate into a terrible fright. Strict inquiries were made after the bad dancer, and he was at length found to be a slave, whom his master, a substantial citizen, had, just before the religious

Year of
R O M E
CCLXII.
Bef. J. C.
Four hundred ninety-
Nineteenth
Consulship.

Year of
R O M E
CCLXIII.
Bef. J. C.
Four hundred eighty-nine.

Twentieth
Consulship.
* A 2d time
consul.
D. Hal. B.
7. p. 472,
473.
Livy, B. 2.
c. 36.
Plut. in
Coriol.
p. 225.

Year of
R O M E
CCLXIII.
Bef. J. C.
Four hun-
dred eigh-
ty-nine.

Twentieth
Consulship.

D. Hal. B.
7. p. 480.

procession that preceded the sports, caused to be whipped through the crossways, the Forum, and the Circus, through all which places the procession was to pass. The poor wretch, from the violence of his pain, had uttered imprecations, and had screwed himself into an hundred odd postures at every stroke; an improper and indecent prelude to so solemn a ceremony. And this it seems had offended Jupiter. The citizen was fined, and a decree passed for renewing the games in a more sumptuous and expensive manner than before. The senate however deferred the celebration of them to the next consulate.

II. THE consular power being now the only thing which kept the tribunes in awe, we may well suppose, that they employed their efforts to hinder its falling into any hands but of patricians devoted to their interests, or too little esteemed to be much feared: and, perhaps, they insinuated to the people, that the greatest captains were not the most fit to govern a commonwealth; that men of their high courage, and accustomed to an absolute power in the armies, brought home with their victories a spirit of pride, ever dangerous in a free state. As the consuls were always chosen in the *comitia* by centuries, of which those of the first and richest class made the majority, the senators and patricians had usually disposed of that dignity as they pleased. But now, even in that kind of assembly, the plebeian party carried their point by the artful management of their tribunes. C. Julius and P. Pinarius Rufus,

D. Hal. B.
8. p. 481.

men known to be but indifferent soldiers, were, by the votes of the people, raised to the consulship, and chiefly (says Dionysius) for that reason¹.

III. IN the meantime, Coriolanus, that exiled hero, who had appeared so unmoved by his disgrace, was meditating, with all the force

Year of
R O M E.
CCLXIV.
Bef. J. C.
Four hun-
dred eigh-
ty-eight.¹

Twenty-
first Consul-
ship.

¹ Mr. Vertot observes upon this occasion, that the senate and the people acted both of them contrary to their real interests, and seemed to aim at joining two things incompatible. All the Romans, says he, as well patricians as plebeians, aspired to the conquest of Italy; the command of the armies was reserved to the patricians, who indeed possessed all the dignities of the state; they had no soldiers but the plebeians, whom they would reduce to that timid submission, and that servile dependence, which they could scarce have expected in mean artificers, and a populace bred up in obscurity. The people, on the other hand, powerful, numerous, and full of that ferocity growing from a continual exercise of arms, in order to lessen the authority of the government, were for having consuls and generals who would be easy, indulgent, complacent to the multitude, and would behave themselves toward their soldiers rather with the modest manners of equality, than with that lofty and imperious air which the command of armies naturally gives a general. It was necessary for putting an end to the misunderstanding between those two orders in the republic, that they should either jointly have resolved to content themselves with the narrow limits of their state, and lay aside the ambition of making conquests; or that the patricians should have allowed a greater share in the government to a warlike people, citizens during winter, but soldiers all the summer; and the people, on their side, have named to the command none but the best generals in the republic.

Mr. Vertot adds, that he owes this reflection to the events that follow; it not being long before the people repented their having intrusted the government of the state, and the command of the armies, to two men equally incapable of those functions

Year of
R O M E
CCLXIV.
Bef. J. C.
Four hun-
dred eigh-
ty-eight.

Twenty-
first Con-
sulship.

D. Hal. B.
8. p. 481.
Plut. in
Coriol. p.
224.

of his mind, the most effectual means to revenge his wrongs ; his silence and seeming insensibility having been the pure effect of an indignation and resentment too deep for superficial expression. He spent the first days of his banishment at a country seat of his own, his thoughts wholly employed how to compass the destruction of his enemies ; a design, which his vengeful heart would not forego, though the execution of it should involve the ruin of his country. At length, when he had cast his eyes upon the several nations that were neighbours and enemies to Rome, Sabines, Æqui, Tuscans, Volsci, and Hernici, he found none that seemed more exasperated against the Romans, or in a better condition to undertake a war, than the Volsci.

They were a republic or community, consisting of several small cantons, united by a league, and governed by an assembly of deputies from each of them. This nation bordering upon Rome, and jealous of her rising greatness, had always opposed it with remarkable courage, though with little success. The Romans had taken from them some of their towns, and part of their territory ; and during the time that Coriolanus's affair was depending, had, by threatening them with a new war, (on occasion of some violence they had offered to certain Sicilian ambassadors sent to Rome upon the corn traffic) terrified them into the submission of suppliants for peace. The Volsci obtained of the republic a truce for two years. But this did not lessen the animosity in their hearts ;

they sought all over Italy to stir up new enemies against the Romans; and it was upon the knowledge of this, Coriolanus built his hopes of engaging them to renew the war. But he was the most unfit man in the world for such an undertaking; he had done them more mischief than all the other Roman generals; more than once he had cut to pieces their troops, ravaged their country, taken and plundered their towns: the name of Coriolanus was no less odious than formidable throughout the whole community of the Volsci.

Besides, they had at this time for their general Attius Tullus, whom Coriolanus in many actions, where they fought against each other, had constantly vanquished; a disgrace which few commanders have magnanimity enough to forgive. Nothing could be more dangerous for the Roman, than to put himself into the hands of such an enemy; nevertheless, immoderate thirst of vengeance being now the prevailing passion in his soul, that was unused to fear, he resolved to apply himself immediately to Tullus.

He departed from his retreat in disguise: and in the evening entered Antium, one of the chief cities of the Volsci. It was here that Tullus resided, and to his house Coriolanus went directly. With his face covered, and without speaking one word, he walked in, and seated himself by the hearth of the domestic gods, a place sacred in all the houses of the ancient Pagans. A behaviour so extraordinary, and a certain air of authority, that never abandons

Year of
R O M E
CCLXIV.
Bef. J. C.
Four hundred
eighty-eight.

Twenty-
first Con-
sulship.

Livy, B. 2.
c. 35.
Plut. in
Coriol.
p. 224.
D. Hal. B.
8. p. 481.
Val. Max.
B. 5.

Year of
R O M E
CCLXIV.
Bef. J. C.
Four hun-
dred eigh-
ty-eight.

Twenty-
first Con-
sulship.

great men, surprised the servants; they ran to tell their master. Tullus came, and demanded of him who he was, and what he required.

Coriolanus then discovering himself: "If thou dost not yet know me, I am Caius Marcius, my surname is Coriolanus, the only reward left me of all my services. I am banished from Rome through the hatred of the people, and the pusillanimity of the great: I seek revenge; it lies in thy power to employ my sword against our common enemies. If thy republic will not accept of my service, I give my life into thy hands; destroy an old enemy, who otherwise may do more mischief to thy country."

Tullus, amazed at the greatness of his courage, gave him his hand: "Fear nothing, Marcius, thy confidence is thy security. By giving us thyself, thou makest us an inestimable present; we shall know how to value thy services better than thy fellow-citizens: so great a captain may justly expect the highest honours from the Volsci." He then led him into his apartment, where they privately conferred about the means of renewing the war.

IV. It has been already observed, that there was at this time a truce between the Volsci and the Romans; the business was to bring the former to a resolution of breaking it; a point not easy to be carried, because of the losses which the Volsci had suffered in the last war. However, the two generals found means to compass what they desired. The Romans were preparing for their public sports, (a part

D. Hal. B.
5. p. 482,
483.
Livý, B. 2.
c. 37.
Plut. in
Coriol.
p. 226.

of the religion of those times) pursuant to the admonition, before mentioned, of Jupiter by the old man. From the several nations about Rome, there flocked to the show great numbers, and particularly of the Volsci. They crowded every quarter of the city; nay many, not being able to find hosts to receive them, lay under tents in the public places. So unusual a multitude of strangers gave uneasiness to the consuls; and, to add to it, Tullus contrived to raise a false alarm, that the Volsci intended to set fire to the town. The known animosity of that people against the republic made the report easily credited; so that the magistrates caused an order to be published, enjoining all the Volsci to depart before night, and even prescribing the gate through which they should pass: and accordingly all of that nation were instantly driven out of Rome. As they were returning home, each man bearing in his heart the shame of this ill usage, and a strong desire of revenge, Tullus met them in the way as by chance; and, when he had heard them relate the unworthy manner in which they had been treated, "Is it possible," he cried, "they could drive you from a public festival, like the profanest wretches and outlaws? After so vile a treatment, you can no longer hide from yourselves the implacable hatred which the Romans bear you. And will you patiently wait till, without regard to the truce which has disarmed you, they suddenly invade us again, and lay waste our territories?"

Year of
R O M E
CCLXIV.
Bef. J. C.
Four hun-
dred eighty-eight.

Twenty-
first Con-
sulship.

Livy, B. 3.
c. 38.

An assembly of the states was called without

Year of
R O M E
CCLXIV.
Bef. J. C.
Four hun-
dred eigh-
ty-eight.

Twenty-
first Con-
sulship.

D. Hal. B.
S. p. 484.
& seq.

delay ; and the more violent were for immediately carrying fire and sword into the territory of Rome, in revenge for the insult they had received. But Tullus, who conducted this affair, advised them, before they broke out, to send for Coriolanus into their assembly : “ That captain,” said he, “ whose valour we have so often experienced, and who now bears more enmity to the Romans than even we ourselves, seems to have been brought hither by the gods to restore our affairs ; and he will give us no counsels, whereof he will not share the dangers of the execution.”

The Roman, being introduced into the assembly, appeared there with a countenance sad, but resolute ; all present fixed their eyes attentively upon the man, whose name had been so dreadful to them ; and they listened to him with that respect which is always paid to merit under persecution. When he had first related to them his story, and represented the ingratitude and injustice with which he had been condemned by his fellow-citizens to perpetual banishment, he proceeded in words to this effect :

“ If I had sought only a place of refuge, I might have retired either among the Latines our allies, or to some Roman colony. But a life so obscure had been to me insupportable ; for I always thought it better for a man to die, than be reduced to such a condition, as to be unable either to serve his friends, or to revenge himself upon his enemies. This is my temper : I would deserve by my sword the asylum I ask of you : let us join our common resentments.

Those ungrateful Romans, who have banished me so unjustly, are your most inveterate enemies; you are sensible of it; with pleasure I perceive, you are all disposed to renew the war; and indeed it is much your interest to stop the progress and diminish the strength of so encroaching a neighbour. But, in order to render this war successful, the motive you shall assign for taking arms, must be just in the sight of the gods, and such as will engage the several states about Rome to espouse your cause. You are not ignorant of how small an extent, at the founding of that city, the Roman territory was, which is now stretched into a wide dominion, by the conquests they have made, or, to speak more justly, by their usurpations. There is not, in all their neighbourhood, a nation from which they have not wrested some of its towns, and a considerable part of its lands. The Sabines, Albans, Æqui, Hetrurians, and others have suffered from them like injuries to yours. Make it the common interest of those states to join you in your enterprise. Let ambassadors be sent to demand of the Romans *a restitution of the lands and cities which they have taken from you, whether by hostile invasions, or by compulsive treaties.*

“ If the Romans, intimidated by your menaces of a war, consent to restore to you the towns and the lands which they have deprived you of, then, after your example, the other nations of Italy will demand back what has been taken from them; which, if submitted to, will at one stroke reduce that proud people to their

Year of
R O M E
CCLXIV.
Bef. J. C.
Four hundred
eighty-eight.

Twenty-
first Consulship.

Year of
R O M E
CCEXIV.
Bef. J. C.
Four hun-
dred eighty-
eight.

Twenty-
first Con-
sulship.

original weakness. Or, if they resolve, as I doubt not but they will, to retain their usurpations, and bid you defiance, then, in a war so equitable, you will have both gods and men your friends. As for me, in whatever post you place me, you may rely upon my zeal for your service, and my punctual execution of your general's orders. If heretofore, when your enemy, I was very hurtful to you, I may perhaps be found equally useful, when fighting in your cause."

D. Hal. B.
8. p. 487.

Loud and universal applause was given by the assembly to this discourse; and, to bind Coriolanus more strictly to them, they instantly conferred on him the quality of senator. At the same time, pursuant to his advice, ambassadors were dispatched to Rome; where being admitted to audience, they represented to the senate, "that the Volsci were very desirous to terminate amicably all their differences with the Roman republic; but that, in order thereto, it was necessary Rome should restore to them the towns and lands of which she had deprived them: that without this, there could be no solid and lasting peace between the two states: and they therefore hoped, the senate would not, by a refusal of justice, put them under the necessity of commencing a war."

p. 448.

The ambassadors being withdrawn, the senate did not spend much time in deliberation: at Rome to yield to menaces was a thing unknown, or to submit to an enemy, even though victorious, so that the ambassadors were soon called in again. The first consul told them in

few words, that fear would never make the Romans give up what they had conquered by their valour; and that, if the Volsci were the first to take arms, the Romans would be the last to lay them down. And with this answer they were dismissed.

CHAP. XIII.

I. *Coriolanus at the head of a Volscian army recovers from the Romans all the towns they had taken from the Volsci; carries several cities in Latium by assault, and then leads his troops within five miles of Rome; where new consuls are chosen, Sp. Nautius and Sex. Furius.* **II.** *The people, terrified at his approach, cry out to have the sentence of his banishment reversed. The patricians oppose it. He marches to Rome, and invests the place. The senate and people agree to sue to him for peace. Three deputations are sent to him successively, to persuade him to desist from his demands in favour of the Volsci; but all in vain.* **III.** *The mother and wife of Coriolanus go, attended by all the Roman ladies of distinction, to make a fourth attempt upon his resolution.* **IV.** *The interview and conference between Coriolanus and his mother, who prevails upon him to raise the siege of Rome; after which, he is assassinated by the Volsci.*

I. THE report of the ambassadors, at their return, was followed by a declaration of war. Tullus and Coriolanus, foreseeing the senate's answer, had held their troops in readiness to enter upon action. The first, with a part of the forces, made an incursion into the country of the Latines, in order to hinder them from sending any assistance to the Romans: at the same time Coriolanus, with the remainder, threw himself into the territory of Rome, where he made a prodigious capture of freemen, slaves, corn, and cattle, no measures having been

Year of
R. O. M. E.
CCLXIV.
Bef. J. C.
Four hundred eighty-eight.

Twenty-first Consulship.

Plut. in
Coriol.
p. 226.

D. Hal. B.
8. p. 489.
Plut.
p. 226.

Year of
R O M E
CCLXIV.
Bef. J. C.
Four hun-
dred eighty-
eight.

Twenty-
first Con-
sulship.

D. Hal. B.
8. p. 490.
Livy, B. 2.
c. 39.

D. Hal. B.
8. p. 491,
492.

p. 489.

Plut.
p. 226.

taken to oppose him. Both parties returned from their expeditions enriched with booty; which proved an effectual means to augment the army: for the people henceforward, big with the hopes of conquest and plunder, came in crowds to enlist themselves. And now it was agreed that Tullus with a body of reserve should stay in the country to defend the entrance of it against the enemy, while Coriolanus at the head of the main army marched to give the consuls battle, in case they appeared in the field. According to Livy, he first drove from Circæum a colony of Romans that were established there; but Dionysius says, that the inhabitants, intimidated by the approach of the enemy, opened their gates, and that Coriolanus only obliged them to furnish him with provisions and clothes for his soldiers. He then took from the Romans, Satricum, Longulum, Polusca, and Corioli, towns which they had won but a little before; he also made himself master of Corbio, Vitellia, Trebia, Toleria, Bola, Labicum, and Pedum, all in Latium, or upon the confines of it. The Latines had sent to Rome for aid, but the senate had excused themselves, the distress of the republic being extreme. For the Æqui and other allies had revolted; and divisions and animosities reigned at home in the city.

Coriolanus, in his first expedition, had spared the houses and estates of the patricians, either out of some remains of regard for those of his own order; or, which is more probable, to make them suspected by the people, and to increase the dissensions between them. What-

ever was the motive, this was the effect of his conduct. The people failed not to accuse the senate publicly of an understanding with Coriolanus, and of having engaged him to come at the head of an army, to abolish the tribunitian power. The patricians, on their side, reproached the people with having forced so great a captain to throw himself in despair into the party of the enemy. Suspicion, distrust, hatred actuated both orders; and in this time of danger they thought less of repulsing the Volsci, than of defaming each other. The two consuls, hid behind the walls of Rome, made levies but slowly. Spurius Nautius and Sextus Furius, who succeeded them, used diligence in raising an army, but did not show more courage and resolution than their predecessors: it was visible, they durst not encounter so able a general. The people themselves were in no haste to give their names to be enrolled; nobody cared for stirring out of Rome, whether it was that they had no great opinion of the capacity of their leaders, or that they saw themselves deserted by their allies, who had readily espoused the cause which fortune favoured.

Coriolanus, finding no army in the field to oppose his designs, advanced still on, took Lavinium, and at length encamped at the Cluilian trenches, five miles distant from Rome.

II. UPON the fame of this great run of success, multitudes of the Volsci flocked to Coriolanus's army. The very soldiers of Tullus himself, drawn by the hopes of the plunder of

Year of
R O M E
CCLXIV.
Bef. J. C.
Four hundred eighty-eight.

Twenty-first Consulship.
Plut.
p. 491.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hundred eighty-seven.

Twenty-second Consulship.

D. Hal. B.
8. p. 493.
Plut.
p. 227.

Year, of
R. O. M. E.
CCLXV.
Bef. J. C.
Four hundred
dreighty
seven.

Twenty-
second Con-
sulship.

D. Hal. B.
8. p. 496.

Plut.
p. 27.
D. Hal. B.
8. p. 496.

Rome, left their general, and declared they acknowledged no other but the Roman; a fresh victory, of a new kind, which Coriolanus gained over his old adversary, and of which Tullus retained a sharp resentment in his breast. The eyes of all Italy were turned upon the Romans and Volsci, who, by only one man's changing sides, had experienced a surprising change in their fortunes: so true it is, that the strength of a state consists not so much in the number and bravery of its troops, as in the abilities of him who commands them. The consternation was general at Rome. The people, who from the tops of the walls beheld the enemies spread all over the country, came into the Forum, and with clamorous voices demanded a peace, and to have the sentence against Coriolanus reversed. That very people who, with so much fury, had hurried him into banishment, with equal violence now pressed to have him recalled. The senate being assembled to consider of this proposal, absolutely rejected it; which they did, either to remove the suspicion of their having intelligence with him, or perhaps from that high spirit so common among the great men of the republic, never more averse from peace than after ill success. Coriolanus no sooner heard of the senate's resolution, but he broke up his camp, marched directly to Rome, and invested the place, as if he meant to besiege it. A design so daring threw both the patricians and the plebeians into an equal consternation; all courage and resolution failed them, and hatred gave place

to fear. The senate and people with one accord determined now to sue for peace. Five senators, who had been zealous friends of Coriolanus, were chosen to be sent to him upon this negotiation. These were M. Minucius, Posthumus Cominius, Sp. Lartius, P. Pinarius, and Q. Sulpicius, who had all five been consuls. The Volsci made these deputies pass through two ranks of soldiers standing to their arms; and Coriolanus, surrounded by his chief officers, received them seated in his tribunal, with the state of an enemy who is resolved to prescribe the law. Minucius exhorted him, in modest and pathetic terms, to give peace to the two nations; and conjured him not to push too far the advantages, which his superior courage and abilities had given the Volsci; but to remember the regard he owed to his country. He put him in mind of the friendship the patricians had always shown him; and even excused in some measure the people, of whom nine tribes had voted for him. He represented to him the unreasonableness of carrying his resentments to such an unbounded excess, and the remorse that must follow so criminal an enterprise as he was engaged in; how successful soever it might prove. He then reminded him of the instability of fortune, though it had hitherto favoured him; and, in conclusion, invited him to return into the bosom of his native city, which now, as a tender mother, stretched out her arms to receive him.

Year of
R. O. M. E.
CCLXV.
Bef. J. C.
Four hundred
eighty-seven.

Twenty-
second Con-
sulship.

D. Hal. B.
8. p. 497.
Plut.
p. 228.

D. Hal.
ibid. & seq.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

Plut. *ibid.*
D. Hal. B.
8. p. 502.
& seq.

To all these remonstrances Coriolanus gave this severe answer:—That Rome might obtain a peace, if she would restore to the Volsci the country she had taken from them, grant them the same rights of citizenship which she had granted to the Latines, and recal the Roman colonies from those towns she had got possession of unjustly; but that he could abate nothing of these demands.

That as to the liberty offered him of going back to Rome, it was not worth his acceptance. “With what satisfaction,” said he, “can I return to a city where injustice reigns, and vice enjoys the honours which are due to virtue? consider the men who govern there, and the man you have driven thence. What was my crime? I could not bear to see the whole authority of the government fall into the hands of factious tribunes and a senseless populace. This was the offence for which the senate delivered me up to the fury of the people. Yes, the senators are they whom I accuse as the authors of my misfortunes. The injustice of the people indeed condemned me, but it was the weakness of the senate which put me within the reach of their power: so that baseness and iniquity are become universal in the republic.—What a shameful life should I be forced to drag on, in Rome? flatter the insolent multitude? not dare to speak my opinion with freedom?—And who will promise me, that I shall not meet with a Sicinnius or a Decius to arm the populace once more against

de had not forget the good will they had for

me? How can I be assured that the devastations made on your lands, the conquest of your cities, and the slavery of your allies, will not be laid as fresh crimes to his charge, who was deemed worthy of death for bare words?—

You accuse me of impiety. Have I been guilty of any towards Rome, that cruel mother whom no services could oblige, and who has cast out of her bosom a son that was useful to her, and zealous for her glory? I owe her no longer any duty. The nation of the Volsci is now my mother. She forgot the mischiefs I did her; she received me when a fugitive, a wanderer, and poor. She has been profuse in bestowing upon me her honours, her magistracy, and the command of her armies. You think it impious to abandon professed enemies; and you would have me betray the most affectionate friends, when they place all their confidence in me. No, Romans, I am not like you. I know how to acknowledge obligations, and to adhere to those who have done me honour. The remorse you speak of is for Rome herself to feel; let her dread the rage of those avenging furies which torment the guilty. As for me, the gods have sufficiently shown that they approve of my resentments; and victory proclaims aloud whose cause it is that they espouse.”

Coriolanus having spoke in this haughty strain as to what concerned the interests of the Volsci, and the injuries he had suffered from the Romans, came to a more gentle behaviour towards the deputies. He assured them that he had not forgot the good-will they had for-

Year of
R O M E
CCLXV.
Bef. J. C.
Four hundred eighty-
seven.

Twenty-
second Con-
sulship.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

merly expressed for him ; nor could ever lose the sense of his obligations to them for their generous protection of his mother, wife, and children, since his banishment. That he was ready to do them any personal good office in his power, and for their sakes would even grant the Romans a truce for thirty days with regard to the proper territory of Rome ; but that, after the expiration of that term, he should expect from them a decisive answer. He then dismissed the deputies.

D. Hal. B.
8. p. 509.

Plut.
p. 228.

The thirty days, which he allowed the Romans to consider of his demand, he employed in taking other towns of Latium ; and then appeared once more with his whole army in the neighbourhood of Rome. The senate had spent the time in deliberations, and had come to a resolution never to receive law from their enemies, nor even to treat of an alliance with the Volsci, till they had withdrawn their troops from the territory of Rome, and from those of her allies. Ten other senators, who had all been consuls, were dispatched to Coriolanus to signify to him this determination of the fathers. These deputies conjured him to moderate his displeasure, and demand nothing that was unbecoming the dignity of the Roman name to grant. They bid him remember that the Romans were not men whom threats could terrify ; but they added, that, if in his opinion the Volsci deserved favour, they might, upon laying down their arms, obtain by treaty whatever they could reasonably desire.

D. Hal. B.
8. p. 510.

His answer was short, That the Romans

had no choice but restitution or war; and that he would allow them but three days to come to a final determination. The deputies would have replied, but he refused to hear them, commanded them instantly to leave his camp, and threatened to punish them as spies if they did not obey.

The senate, though extremely piqued when, from the report of their deputies, they understood with what a haughty arrogance Coriolanus had treated them, were yet in no haste to send an army into the field against him; not thinking it advisable to trust an affair of so great importance to the management of two consuls, who had neither vigour, courage, nor military skill. It was resolved to keep close within the fortifications of Rome, and apply the whole strength of the republic to the defence of the city; which they had much reason to fear, would speedily be attacked. Some hope, however, still remained to the fathers of preventing the calamity of a siege, by a new deputation to Coriolanus. As if the republic (says Plutarch) had been beaten by a tempest, and were just ready to perish, they (according to the proverb) “threw out the holy anchor.” For they ordered the pontiffs, priests, augurs, all the ministers of religion, vested in their ceremonial habits, to go in solemn procession to his camp, and, with most pressing instances, conjure him to comply with the proposals, which had been twice made to him for finishing the war.

To these sacred ambassadors Coriolanus

Year of
R O M E
CCLXV.
Bef. J. C.
Four hundred eighty-
seven.

Twenty-
second Con-
sulship.

In Cor.
P. 228.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

D. Hal. B.
8. p. 511.
Plut.
p. 229.

did not refuse an audience; yet they found him as inexorable to them as he had been to the profane. He would abate nothing of his former demands.

III. ALL hope of pacifying the injured exile being now extinguished, the sole business at Rome was to prepare with the utmost diligence for sustaining the siege. The young and able-bodied men had instantly the guard of the gates and trenches assigned to them; while those of the veterans, who, though exempt by their age from bearing arms, were yet capable of service, undertook the defence of the ramparts. The women, in the meanwhile, scared by these movements and the impending danger into a neglect of their wonted decorum, ran tumultuously from their houses to the temples. Every sanctuary, and especially the temple of Jupiter Capitolinus, resounded with the wailings and loud supplications of women, prostrate before the statues of the gods. In this general consternation and distress, Valeria, (sister of the famous Valerius Poplicola) as if moved by a divine impulse, suddenly took her stand upon the top of the steps of the temple of Jupiter, assembled the women about her, and having first exhorted them not to be terrified by the greatness of the present danger, confidently declared, “That there was yet hope for the republic; that its preservation depended upon them, and upon their performance of the duty they owed to their country.” “Alas!” cried out one of the company, “what resource can there be in the weakness of

wretched women, when our bravest men, our ablest warriors, themselves despair?"—"It is not by the sword, nor by strength of arm," replied Valeria, "that we are to prevail; these belong not to our sex. Soft, moving words must be our weapons and our force. Let us all, in our mourning attire, and accompanied by our children, go beg and intreat Veturia, the mother of Coriolanus, to intercede with her son for our common country. Veturia's prayers will bend his soul to pity. Haughty and implacable as he has hitherto appeared, he has not a heart so cruel and obdurate, as not to relent, when he shall see his mother, his revered, his beloved mother, a weeping suppliant at his feet."

This motion being universally applauded, the whole train of women took their way to Veturia's house. Her son's wife, Volumnia, who was sitting with her when they arrived, and was greatly surprised at their coming, hastily asked them the meaning of so extraordinary an appearance. What is it? she said. What can be the motive that has brought such a numerous company of visitors to this house of sorrow?

Valeria, addressing herself to the mother, "It is to you, Veturia, that these women have recourse in the extreme peril, with which they and their children are threatened. They intreat, implore, conjure you to compassionate their distress, and the distress of our common country. Suffer not Rome to become a prey to the Volsci, and our enemies to triumph over

Year of
R O M E
CCLXV.
Bef. J. C.
Four hundred eighty-seven.

Twenty-second Consulship.

D. Hal. B.
8. p. 512.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

our liberty. Go to the camp of Coriolanus: take with you Volumnia and her two sons: let that excellent wife join her intercession to yours: permit these women with their children to accompany you; they will all cast themselves at his feet. O Veturia, conjure him to grant peace to his fellow-citizens: cease not to beg till you have obtained: so good a man can never withstand your tears: our only hope is in you. Come then, Veturia; the danger presses; you have no time for deliberation; the enterprise is worthy of your virtue; the gods will crown it with success: Rome shall once more owe its preservation to our sex: you will justly acquire to yourself an immortal fame, and have the pleasure to make every one of us a sharer in your glory."

D. Hal. B.
8. p. 513.

Veturia, after a short silence, with tears in her eyes, answered, "Weak indeed is the foundation of your hope, Valeria, when you place it in the aid of two miserable women. We are not wanting in affection to our country, nor need we any remonstrance or intreaties to excite our zeal for its preservation. It is the power only of being serviceable that fails us. Ever since that unfortunate hour, when the people in their madness so unjustly banished Coriolanus, his heart has been no less estranged from his family than from his country. You will be convinced of this sad truth by his own words to us at parting. When he returned home from the assembly, where he had been condemned, he found us in the extremest depth of affliction, bewailing the miseries that were

sure to follow our being deprived of so dear a son, and so excellent a husband. (We had his children upon our knees.) He kept himself at a distance from us; and, when he had a while stood silent, motionless as a rock, his eyes fixed, and without shedding a tear, ‘’Tis done,’ he said.—‘O mother, and thou Volumnia, the best of wives, to you Marcius is no more. I am banished hence for my affection to my country, and the services I have done it. I go this instant; and I leave for ever a city, where all good men are proscribed. Support this blow of fortune with the magnanimity that becomes women of your high rank and virtue. I commend my children to your care. Educate them in a manner worthy of you, and of the race from which they come. The gods grant, they may be more fortunate than their father, and never fall short of him in virtue; and may you in them find your consolation! Farewell.’

“We started up at the sound of this word, and with loud cries of lamentation ran to him to receive his last embraces. I led his elder son by the hand, Volumnia had the younger in her arms. He turned his eyes from us, and, putting us back with his hand, ‘Mother,’ said he, ‘from this moment you have no son: our country has taken from you the stay of your old age.—Nor to you, Volumnia, will Marcius be henceforth a husband; may’st thou be happy with another, more fortunate!—My dear children, you have lost your father.’

“He said no more, but instantly broke away from us. He departed from Rome without

Year of
R O M E
CCLXV.
Bef. J. C.
Four hundred eighty-seven.

Twenty-second Consulship.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

settling his domestic affairs, or leaving any orders about them; without money, without servants, and even without letting us know to what part of the world he would direct his steps. It is now the fourth year since he went away; and he has never inquired after his family, nor, by letter or messenger, given us the least account of himself; so that it seems as if his mother and his wife were the chief objects of that general hatred which he shows to his country.

“What success then can you expect from our intreaties to a man so implacable? Can two women bend that stubborn heart, which even all the ministers of religion were not able to soften? And indeed what shall I say to him? What can I reasonably desire of him? That he would pardon ungrateful citizens, who have treated him as the vilest criminal? That he would take compassion upon a furious, unjust populace, which had no regard for his innocence? And that he would betray a nation, which has not only opened him an asylum, but has even preferred him to her most illustrious citizens in the command of her armies? With what face can I ask him to abandon such generous protectors, and deliver himself again into the hands of his most bitter enemies? Can a Roman mother, and a Roman wife, with decency, exact, from a son and a husband, compliances which must dishonour him before both gods and men? Mournful circumstance, in which we have not power to hate the most formidable enemy of our country! Leave us there-

fore to our unhappy destiny; and do not desire us to make it more unhappy by an action that may cast a blemish upon our virtue."

The ladies made no answer but by their tears and entreaties: some embraced her knees; others beseeched Volumnia to join her prayers to theirs; all conjured Veturia not to refuse her country this last assistance. Overcome at length by their urgent solicitations, she promised to do as they desired, if the senate agreed to it. Valeria gave advice to the consuls, of what the women had projected. The matter was proposed to the senate, and was long debated. Some feared lest Coriolanus should detain all those ladies, who were of the best families in Rome, and by that means make the gates be opened to him, without so much as drawing his sword: others were even for securing his mother, wife, and children, as so many hostages that might bring him to a better temper: but the majority approved of the new deputation, saying, that the gods, who had inspired Valeria with this pious design, would give it success; and that no treachery was to be apprehended from a man of Coriolanus's character, proud indeed, severe and inflexible, but not capable of violating the law of nations.

This opinion having prevailed, the very next day all the most illustrious of the Roman ladies repaired to Veturia's house. There they presently mounted a number of chariots, which the consuls had ordered to be made ready for them, and, without any guard, took the way to the enemy's camp.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hundred eighty-seven.

Twenty-second Consulship.

D. Hal. B.
8 p. 514.

p. 515.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

Plut.
p. 230.

D. Hal. B.
8. p. 516.

IV. CORIOLANUS, perceiving from afar that long train of chariots, sent out some horsemen to learn the meaning of it. They quickly brought him word, that it was his mother, his wife, and a great number of other women, and their children, coming to the camp. He doubtless divined what views the Romans had in so extraordinary a deputation; that this was the last expedient of the senate; and, in his own mind, he determined, not to let himself be moved. But he reckoned upon a savage inflexibility that was not in his nature: for, going out with a few attendants to receive the ladies, he no sooner beheld Veturia attired in mourning, her eyes bathed in tears, and with a countenance and motion that spoke her sinking under a load of sorrow, but he ran hastily to her, and, not only calling her mother, but adding to that word the most tender epithets, embraced her, wept over her, and held her in his arms to prevent her falling. The like tenderness he presently after expressed to his wife, highly commending her discretion in having constantly stayed with his mother, since his departure from Rome: and then, with the warmest paternal affection, he caressed his children.

When some time had been allowed to those silent tears of joy, which usually flow in abundance at the sudden and unexpected meeting of persons so dear to each other, Veturia entered upon the business for which she came. To avoid giving umbrage to the Volsci, Coriolanus had called the principal officers to be wit-

nesses of what passed between his mother and him. That she might engage her son to have the more regard to her request, she began with telling him, that all those women, whom he knew to be of the best families in Rome, had, during his absence, done every thing in their power, to give comfort to her, and Volumnia his wife; she added, that, touched with the calamities of the war, and apprehending the fatal consequences of the siege of Rome, they were come, with united supplications, to beg a peace at his hands: and she conjured him in the name of the gods not to refuse that favour to his country.

Coriolanus answered, that he should offend those gods, whom he had invoked to be witnesses of his faith given the Volsci, if he granted her so unjust a demand. That he could not think of betraying the interests of a people, who had not only honoured him with a place in their senate, but had also trusted him with the command of their army: that he had found at Antium more honours and wealth than he had lost at Rome by the ingratitude of his fellow-citizens; and that nothing would be wanting to his happiness, if she would only prevail with herself to forsake Rome, and, in the country of the Volsci, share with him all the advantages of his glorious fortune.

The officers, present at this conference, testified, by a murmur of applause, that they were highly pleased with his answer. Veturia, in her reply to it, assured him, that she would never require any thing of him, that could bring

Year of
R O M E
CCLXV.
Bef. J. C.
Four hundred eighty-seven.

Twenty-second Consulship.

D. Hal. B.
8. p. 517.

p. 518. &
seq.


Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

a blemish upon his honour ; but added, that without acting inconsistently with his obligations to the Volsci, he might mediate a peace between the Romans and them.—“No, my son, I do not ask of thee to betray a people who have given thee so generous a reception, and even confided their arms to thy conduct. Nor do I wish that thou shouldst make a separate peace for thyself without the consent of the whole nation. Veturia is incapable of urging her son to any base action. Grant us only a truce for a year, that, in this interval, a solid peace may be negotiated, an alliance that shall be firm and durable, and equally advantageous to both nations. You, who are versed in public affairs, can have no difficulty to persuade the Volsci, that a peace, upon such fair conditions as they may now be certain to obtain, is preferable to a war, the final event of which is still uncertain. But if, elated by the success they have had under your guidance, and imagining that fortune must always favour them, they refuse to listen to your remonstrances, what hinders you from publicly resigning your commission of general? Let all be open: no disguise, no breach of trust, no treachery to your new friends: but then, beware, my son, of impiously continuing an enemy to those, with whom you have a yet more near relation. —Nor let the apprehension of appearing ungrateful to your benefactors restrain you from complying with my request. Have not the Volsci been sufficiently recompensed by the many signal and important services you have

done them? Liberty was their sole ambition; you have not only procured them liberty, but have raised them to so high a pitch of prosperity, that they are now considering whether it will be more advisable totally to suppress the Roman power, or to live with us upon a foot of equality, the two nations under one and the same government. Can you imagine, that thus benefited, thus exalted by your aid, they will resent, as an injury, your not sacrificing to them your own country, your not imbruing your hands in the blood of your fellow-citizens? — You will tell me, perhaps, that you hate your country. But are you not unreasonable in so doing? When the Romans unjustly condemned you to banishment, was Rome in its natural state? Was it governed by the laws of our forefathers? Was not the republic agitated by a violent storm? Were not the members of it distempered? Not all indeed; for they were not all of one mind. It was only the baser and more corrupt part of the citizens that voted against you, and these incited by the pernicious counsels of their leaders, those enemies to all good men. But had it been otherwise, had all the citizens unanimously combined to banish you, as a man dangerous to the state on account of his mischievous politics, would it be therefore allowable for you to revenge yourself in this manner? Many others, whose intentions, in the administration of public affairs, were no less upright than yours, have been as unjustly and hardly treated as you; (you will find few good magistrates whose shin-

Year of
R O M E
CCLXV.
Bef. J. C.
Four hundred eighty-seven.



Twenty-second Consulship.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

ing merit has not excited envy;) and yet those worthy men suffered their disgraces with temper, considered them as in the number of those evils to which, by the condition of humanity, they were inevitably exposed; and, removing into foreign countries, carried thither no resentment, no malice against their own. Who was ever more injuriously treated than Tarquinius Collatinus? When with an honest zeal, and with all his power, he had assisted in delivering Rome from the tyranny of the Tarquins, he was himself banished thence, upon a false accusation of plotting to re-establish that tyranny. He retired to Lavinium, and there passed the remainder of his days in tranquillity, without ever attempting any thing that could give credit to the calumnies so maliciously vented against him.

“ But, if you will have it so, I shall suppose that every man who suffers an injury, be it from friends or enemies, his countrymen or strangers, has a right to revenge himself. Those, who by their unjust usage of you provoked your anger, have you not sufficiently punished them? Our colonies expelled from their settlements by your arms; the cities of our allies forced and plundered; the Roman lands pillaged and laid waste; Rome itself invested, terrified with the apprehension of famine, and of the whole variety of miseries incident to a city besieged: how is it, that all this has not been sufficient to assuage thy thirst of vengeance? O Marcius, at thy first entering the Roman territory, did it not come into thy mind, *This*

is the country that gave me birth ; here I was nourished in my infancy ; here I was brought up ? And couldst thou have the heart to lay it waste ? When thou sawest the walls of Rome from afar, was it possible to forget, that within those walls were thy household gods, thy mother, thy wife, thy children ? Yet none of these reflections had any power to move thee. The most amicable offers, repeated offers from the senate, by ambassadors, men of the highest worth and chosen from among thy friends, have been rejected by thee with scorn. The intercession, the earnest entreaties, of the whole body of the priesthood, those sacred ministers of religion, have had no power to move thy compassion. No ; to satisfy thy boundless revenge, Rome, thy native city, must be sacked, and its inhabitants reduced to slavery. A frenzy, a madness of anger, that transports thee ! Offended gods are appeased by supplications, vows, and sacrifices : shall mortals be implacable ? Will Marcius set no bounds to his resentment ? But, be it, that thy enmity to thy country is too violent to let thee listen to her petition for peace, yet be not deaf, my son, be not inexorable to the prayers and tears of thy mother. Thou darest the very appearance of ingratitude towards the Volsci ; and shall thy mother have reason to accuse thee of being ungrateful ? Call to mind the tender care I took of thy infancy and earliest youth ; the alarms, the anxiety, I suffered on thy account, when, entered into the state of manhood, thy life was almost daily exposed in foreign wars ;

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

the apprehensions, the terrors, I underwent when I saw thee so warmly engaged in our domestic quarrels, and, with heroic courage, opposing the unjust pretensions of the furious plebeians. My sad forebodings of the event have been but too well verified. Consider the wretched life I have endured, if it may be called life, the time that has passed since I was deprived of thee. O Marcius, refuse me not the only request I ever made thee; I will never importune thee with any other. Cease thy immoderate anger, be reconciled to thy country, this is all I ask; grant me but this, and we shall both be happy. Freed from those tempestuous passions which now agitate thy soul, and from all the torments of self-reproach, thy days will flow smoothly on in the sweet serenity of conscious virtue: and, as for me, if I carry back with me to Rome the hopes of an approaching peace, an assurance of thy being reconciled to thy country, with what transports of joy shall I be received! In what honour, in what delightful repose, shall I pass the remainder of my life! What immortal glory shall I have acquired! And, if it be true, that there are different places for our souls, after death, I shall be in no danger of descending to those subterraneous and gloomy caverns where the wicked are confined. Nay, the Elysian fields, that delicious abode allotted for the virtuous, will not be the place of my habitation, but the pure and sublime region of the air, which is said to be inhabited by the children of the gods. My soul shall there publish the praises of thy

piety and affection to me, and never cease importuning the gods to grant thee a full recompense of all thy merit.

“ But I give myself up too much to these pleasing views. What will become of me, if thou continuest implacable? Dost thou believe, that, covered with the shame of a contemptuous denial, I will live till thy arms have decided our doom? That I will wait that dismal day, when I shall see my son either led in triumph by his countrymen, or erecting trophies on the ruins of that city where he was born? No, Marcius, be assured, that if I cannot move thee to compliance, I will here put an end to my life in thy presence: thou shalt not march to Rome without treading over the body of her who bore thee. And if this has not power to stop thy fury, yet consider at least, that, by thy bringing slavery on thy country, thy wife and thy children must inevitably fall under the same calamity, or avoid it by a speedy death.”

Coriolanus made no attempt to interrupt Veturia while she was speaking; and when she had ceased, he still continued in a deep silence. Anger, hatred, and desire of revenge, balanced in his heart those softer passions which the sight and discourse of his mother had awakened in his breast. She perceiving his irresolution, and fearing the event, thus renewed her expostulation:

“ Why dost thou not answer me, my son? Is there then such a greatness of mind in giving all to resentment? Art thou ashamed to grant any thing to a mother who thus entreats thee, thus humbles herself to thee? If it be so, to

Year of
R O M E
CCLXV.
Bef. J. C.
Four hundred eighty-seven.

Twenty-second Consulship.

Plut.
p. 231.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

D. Hal. B.
8. p. 523.
Plut.
p. 231.

what purpose should I longer endure a wretched life?" As she uttered these last words, interrupted by sighs, she threw herself prostrate at his feet; his wife and children did the same; and all the other women, with united voices of doleful accent, begged and implored his pity.

The Volscian officers, not able unmoved to behold this scene, turned away their eyes: but Coriolanus, almost beside himself to see Veturia at his feet, passionately cried out: "Ah! mother, what is it you do?" And, tenderly pressing her hand in raising her up, he added, in a low voice, "Rome is saved, but your son is lost."

And now, taking his mother and his wife aside to a private conference, it was agreed between them, that he should immediately retire with his army out of the Roman territory; that nothing should be done by the senate or people in favour of his return to Rome till a peace was concluded; that he should employ all his credit to bring the Volsci to reasonable terms of accommodation; and that, in case their past success made them obstinate, he should then lay down the command of their armies, which would probably be a means to bring them to a better temper. After this the women took their leave of him, and he turned his thoughts wholly to obtain an honourable peace for his country.

Fame carried to Rome the news of the ladies' success, before they could arrive there themselves; so that crowds of people came out and met them with grateful acclamations. A decree, allowing them to choose their own reward,

Plut.
p. 231.

D. Hal. B.
8. p. 524.

was presently passed with the unanimous consent of both orders. The ladies, when they had consulted together, agreed to ask nothing but permission to erect, at their own expense, in the place where they had overcome the obstinacy of Coriolanus, a temple to women's fortune. The senate highly applauded their disinterested nobleness of spirit, but would not suffer them to pay either for the temple or the statue that was to be worshipped in it. These were erected at the public charge; and Valeria, who had counselled so fortunate a deputation, was the first priestess of this sanctuary.

Early the next morning after Coriolanus's conference with his mother, he broke up his camp, and peaceably marched his army homewards. Nobody had the boldness to contradict his orders, though many were exceedingly dissatisfied with his conduct, while others excused it, being more affected with his filial respect to his mother than with their own interests. As soon as he was arrived in the territory of the Volsci, he made a present to the soldiers of all the spoil that had fallen to his share during the whole campaign, and then dismissed them. This liberality increased their affection to him, so that they made his apology wherever they went.

But Tullus, who had long been jealous of the esteem and credit which his rival had gained with the soldiery, no sooner saw him returned to Antium, than he laid hold of the fair occasion which that return afforded to work his destruction; accusing him, in a full assembly

Year of
R O M E
CCLXV.
Ref. J. C.
Four hundred eighty-seven.

Twenty-second Consulship.
D. Hal. B.
8. p. 525.

p. 526.

p. 527.
Plut.
p. 232.

Year of
R. O. M. E.
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

of the citizens, of having basely betrayed the Volsci; and commanding him to deliver up his commission, and give account of his conduct in the war.

Coriolanus did not refuse a trial, but insisted upon being tried by the general council of the nation, and not by the Antiates alone, among whom his enemy had too many dependants devoted to his will. The contest was a while obstinately carried on, till at length the Volscian, impatient to compass his design, and having suborned some assassins, sent a summons to the Roman to appear in judgment on a certain day to clear himself of treason. On the day appointed, Tullus mounted his tribunal, and, having first charged his adversary with various crimes against the state, exhorted the people to employ violence, if the accused did not instantly abdicate his office. Coriolanus would have answered to the charge, and many of the assembly were disposed to hear him candidly; but when he began to speak, his voice was immediately drowned by clamours from Tullus's faction; and the most audacious of them crying out, "Down with him, kill him, kill him!" the furious rabble in a few moments stoned him to death.

D. Hal. B.
8. p. 528.

Plut.
p. 233.

Such was the end of this great man, according to Dionysius and Plutarch, who likewise agree in telling us, that the nation of the Volsci in general were not pleased with the murder of the hero, but much regretted the loss of him, and, after a pompous funeral, erected a stately tomb to his memory. Dionysius adds, that

D. Hal. B.
8. p. 530.

the Romans themselves, both men and women, on the first news of his death, went into mourning for him ; but Plutarch will have it, that the men did nothing that expressed either honour for his memory, or resentment against him, yet suffered the women, at their own request, to wear mourning ten months, the longest mourning allowed by the laws of Numa.

Year of
R O M E
CCLXV.
Bef. J. C.
Four hun-
dred eighty-
seven.

Twenty-
second Con-
sulship.

Livy says nothing of the mourning of men or women at Rome, for their countryman. He seems to give no credit to the story of the murder, but rather to believe the report of Fabius, (whom he styles *by far the most ancient of the Latine historians*) “that Coriolanus lived long, and in his last years was frequently heard to say, that exile, always grievous, was much more so in old age¹.”

B. 2. c. 40.

¹ FABIVS's report is not incredible. Coriolanus had rejected all the offers of advantage to himself made him by the senate, had been deaf to all the solicitations of his best friends, and had only yielded to his mother ; and filial piety, in those days, was a high point of virtue. And accordingly both Dionysius and Plutarch tell us, that those of the army who disliked his retreat from before Rome did not look upon him as treacherous, but thought his action pardonable ; he being pressed to it by such affecting motives. Add to this, that the hearts of the soldiers were gained to him by his liberality ; and the whole nation indebted to him for extraordinary services. It may therefore easily be supposed, that they did not refuse him a quiet retreat in their country ; and if we consider his haughty and unforgiving temper, and his inextinguishable hatred to the Roman tribunes and the popular

party, these will sufficiently account for his not seeking, or even desiring to return to Rome. According to CICERO (in Læl.) CORIOLANUS killed himself.

It may be proper, in the close of the history of this famous Roman, to mention, that, though Dionysius (whom Plutarch copies) has been followed, in the text, in what he says of Coriolanus's consent to be tried by the people, and of his defence, at his trial, against the accusations of the tribunes: yet from the character of this patrician, so haughty, obstinate, and untractable, Livy's account seems more credible. Not a word in the Latine historian of any such consent, or defence, or even trial. He affirms, that Coriolanus did not appear on the day appointed for his trial, and was condemned in his absence.

Dr. Middleton, in his treatise on the Roman senate, (p. 21.) prefers the authority of Dionysius to that of Livy. "Where these," says he, "happen to differ, it cannot be difficult to decide, which of them ought to have the preference; nay, it is already decided by the judgment of all the best critics; who, upon the comparison, have universally preferred the diligence and accuracy of Dionysius to the haste and negligence of Livy."

To call in question the judgment of all the best critics must be an extreme presumption. I shall therefore only say, that if so mighty an authority had not decided in favour of Dionysius, I should, in many instances, prefer (with regard to the history of the earliest times of Rome) the brevity of Livy to the ample and circumstantial accounts, and seeming accuracy of Dionysius; because I should suspect, that the abundance of the Greek historian was in no measure owing to his diligence, but to his boldness in supplying from himself what he could not find else-

where to make out his story. Several passages, I think, might be produced from his Roman Antiquities to justify this suspicion. We shall see by and by, whether his account of Coriolanus's affair will not alone be sufficient. At present I shall proceed to observe, that Livy not only differs from Dionysius, with relation to the facts above mentioned, but seems to have known nothing of that assembly of the people by tribes (the first assembly of the kind) which the Greek historian reports to have passed sentence of banishment against Coriolanus. Plutarch makes the same report, and doubtless on his countryman's authority; and, I believe, that, on the same authority, and on that alone, all the learned moderns, who have treated of the Roman *comitia*, have, without scruple, admitted the fact. Nevertheless, there are some considerations which make it difficult to believe, that the Roman people voted by tribes, when Coriolanus was condemned to banishment.

I. First, The SILENCE of Livy, who says not one word of *comitia tributa*, on occasion of Coriolanus's affair, nor till he comes to Volero's bill (which was twenty years after) for choosing the tribunes in those assemblies. He speaks particularly, and fully enough of the trials of Menenius and Servilius before the people, the one fifteen, the other sixteen years posterior to the banishment of Coriolanus; but on neither of these occasions does he say the least word of tribes: yet one would think, he could hardly have forbore mentioning, if it were true, what Dionysius relates; namely, that these consulars were tried in *comitia tributa*, and that every one of the tribes gave sentence against Menenius, the son of their greatest benefactor; and not one tribe voted against Servilius.

It is almost incredible that Livy, in writing of the times, when so important a change is pretended to have been made in the constitution of the republic,

should pass it over, without the least notice, if history did really afford any proof of that change being then made.

Whether *COMITIA TRIBUTA*, assemblies of the people, upon which the senate was to have no control, should be introduced for the trial of senators, in capital causes, was surely a question of much greater moment to the senate, than whether the plebeians should be suffered to choose, in such assemblies, their own proper advocates, and legal protectors, the tribunes: yet we find Livy very ample upon the dispute and struggle occasioned by Volero's bill, and wholly silent as to any contest about *comitia tributa*, in the affair of Coriolanus.

Is it in any degree probable, that the senators would have struggled with the tribunes and the people, almost to a civil war, (as both Livy and Dionysius report) to hinder the tribunes from being elected in *comitia*, by tribes, if they had already consented to let senators and consulars be tried for their lives in such assemblies?

II. Not only the SILENCE of Livy concerning *comitia tributa* before Volero's time, but likewise what he says, in speaking of Volero's bill, seems to furnish good reasons to question the truth of Dionysius's date of the introduction of those *comitia*. In Book II. chap. lx. Livy has these words:—"Thus with various fortune in war, and furious discord both at home and abroad, passed this year*, made memorable chiefly by the *COMITIA TRIBUTA*. The affair was more considerable for the victory itself, than for the benefit got by it. For neither the plebeians acquired, nor the senators lost, so much strength, as the *COMITIA* themselves lost dignity, by the exclusion of the senators from the council." [*Varia fortuna belli, atroci*

* Year 282. Fast. Cap.

discordia domi forisque ANNUM exactum INSIGNEM MAXIME COMITIA TRIBUTA EFFICIUNT. Res major victoria suscepti certaminis quam usu. Plus enim dignitatis comitiis ipsis detractum est, patribus ex concilio submovendis, quam virium aut plebi additum aut ademptum patribus.]

M. Crevier* thinks it difficult to reconcile this passage of the historian with another, where he makes the first mention of Volero's bill, for choosing the tribunes in *comitia tributa*: "No trivial thing, under a plausible pretext and a harmless appearance at first, was proposed; but which would deprive the patricians of all power of creating, by the votes of their clients, such tribunes as they liked." [*Haud parva res, sub titulo primâ specie minimè atroci, ferebatur; sed quæ patriciis omnem potestatem per clientium suffragia creandi quos vellent tribunos auferret.*]

* See n. 2.
on Liv. L.
ii. c. 56.

If it were a duty incumbent on every reader of an ancient author to make him always consistent with himself, I should, on this occasion, say, that when Livy calls Volero's bill "no trivial matter," and a few lines after, "a thing weighty in itself," [*res suo molimine gravis,*] it is not with reference to its depriving the patricians of their influence in the elections of tribunes; for it appears plainly, that, though they were busy enough in those elections, they had no great influence on the voters; and were far from being able to create such tribunes as they approved: otherwise, they certainly would not have suffered Volero to be two years successively in the tribuneship. But they neither could hinder his election, nor get into the college any one man who would oppose his measures: by the power therefore of the patricians, by the votes of their clients, to create tribunes, Livy can only mean to intimate, that this was pretended by Volero, and offered as the reason for preferring his bill; the avowed aim of which

(whatever might be the secret one) was to put an end to undue influence in the election of tribunes. And Livy seems to allow this pretence to be specious, and no way unreasonable. For what else can be the meaning of those words, *sub titulo primâ specie minimè atroci*?

Loc. cit.

And when the historian, after saying, *annum insignem maxime comitia tributa efficiunt*, adds, *res major victoria quam usu, plus enim dignitatis*, &c. I apprehend his meaning to be, that the difference was really very inconsiderable as to the influence of the patricians, in the people's choice of tribunes. M. Crevier seems to doubt, whether there was any difference. *Quomodo per clientium suffragia minus valerent patres tributis comitiis, quàm curiatis, quibus antea tribuni creabantur, haud satis liquet*. And this makes it the harder for him to reconcile *res major victoria quàm usu*, with *haud parva res*. But M. Crevier, to increase the difficulty, has taken into consideration not only what Livy intimates, but what Dionysius tells us of the difference between *comitia curiata* and *comitia tributa*. The senators were excluded the *comitia tributa*, according to Livy: and, according to Dionysius, (when he speaks of Volero's bill) no previous *senatus-consultum*, nor sacrifices, nor *auspicia* (of which the patricians had the sole management) were necessary to the holding these *comitia*, and to the making valid what was determined there; all which were necessary in the other.

[*Haud parva res*.] Hæc non facile conciliari posse videntur cum iis quæ infrà de hac eadem re habet Livius in fine c. 60. ubi *plus dignitatis comitiis per hanc actionem detractum ait, quàm virium aut plèbi additum, aut ademptum patribus*. Nec vero mediocriter imminuta videtur hæc lege patrum potentia. Primo enim patres ex comitiis tributis submovebantur,

quod docet noster in illo c. 60. loco quem jam attulimus. Inde est, quòd comitia hæc habebantur plebis propria, et leges in iis latæ *plebiscita* nuncupabantur. 2º. Dionysius hac ipsa de lege agens l. ix. docet iisdem comitiis necessarium non fuisse ut senatus auctor fieret. 3º. Nihil in iis opus fuisse sacris aut auspiciis quorum arbitri patres erant. *Crev. Liv. p. 146.*

Now, supposing that these were, from the beginning, the distinguishing privileges of the *comitia tributa*, and that Livy had these in his mind, it will not be difficult to see, why he calls Volero's bill *haud parva res*, and *res suo molimine gravis*. For the very introduction (under any pretence whatsoever) by full and undisputed authority, of *comitia tributa*, (a new sort of general assemblies of the people, from which the SENATORS were to be, in all senses, excluded) was doubtless a matter of great moment; though the mere transferring the elections of the tribunes from the *curiæ* to the tribes was not so. This latter might be *res major victoria quam usu*.

Dionysius tells us, that Volero, in his second tribuneship, before the bill was passed, added to it these clauses, that the ædiles should be elected in *comitia* by tribes, and that these ASSEMBLIES should have power of concluding all matters, the cognizance and determination of which belonged to the PEOPLE. [Πάντα τὰ ἄλλα, ὅσα ἐν τῷ δήμῳ πράττεσθαι τε καὶ ἐπικυρῆσθαι δεήσει. *Et quicquid aliud apud POPULUM agi decernique oporteret.*] An addition, says the historian, which imported nothing less than an abrogation of the power of the senate, and a transfer of it to the people.

The very learned author of a late work, intitled, *ELEMENTS OF THE CIVIL LAW*, p. 203, speaks as if he thought, that the clause *quicquid aliud*, &c. had passed with the rest of the bill into a law. But Dionysius

D. Hal. L.
ix. p. 600.

p. 605.

does not expressly say this: he seems rather, in the close of his story, to confine the matter of the law to the election of tribunes and ædiles in *comitia tributa*. And, had he expressly said, that the bill was passed with that clause, yet the thing would be absolutely incredible; because, in that case, the electing of consuls, and of all the curule magistrates; and the determination of all matters cognizable by the *comitia centuriata* would have been transferred to the *comitia tributa*; which nobody has ever imagined.

But, to return to Livy's words, *ANNUM INSIGNEM MAXIME COMITIA TRIBUTA EFFICIUNT*, I shall leave it to the reader's consideration, whether, as the historian never mentions *comitia tributa*, till he comes to the year when Volero preferred his bill, those words do not import, that the use of *comitia tributa* was first introduced into the republic in that year. If the leading men of the plebeians had formed the project of bringing *comitia* by tribes into use, for various sorts of business, they could not have thought of a more easy and natural way of introducing such *comitia*, than by demanding them at first, only for the electing of tribunes; nothing having a greater appearance of reason, than that the plebeians should be quite free in the choice of their own proper advocates and protectors. And this I take to have been the real fact.

COMITIA TRIBUTA were introduced, under that pretence, by the tribune Volero, to revenge himself amply on the patricians for the affront he had received from them; and not twenty years before, by the tribune Sicinnius, for the trial of Coriolanus, as Dionysius reports.

III. THE many improbabilities and inconsistencies, and the long elaborate speeches in Dionysius's ac-

account of the first introduction of *comitia* by tribes, furnish ground to suspect, that his principal aim in that account was to get an opportunity of displaying his own talent of oratory; and not to instruct his readers by a true relation of facts. Whoever peruses attentively what he has written of the dispute between the SENATE and the TRIBUNES, concerning Coriolanus, will, I think, observe, that there were three points in question.

1. WHETHER an assembly of the people could legally take cognizance of a criminal accusation, brought against a senator, or any patrician?

Coriolanus at first declares, that he is accountable to the CONSULS only, and that he will, in no instance, in nothing, [*περὶ ἑδενός πραγματος*] submit himself to the judgment of the people. Yet, when he finds that the majority of the senate are of a different opinion, he consents to be tried by the people; provided he be accused of nothing but the greatest of all crimes, aiming at the TYRANNY. Nay, in the end, he consents (according to Dionysius) to be tried on this article in an assembly of the people, where the tribunes, whom he had just before reviled and insulted, are to be lords president; [and where the consuls and senators (according to some learned writers) could not be present.]

D. Hal. L.
vii. p. 443.

p. 463.

p. 467.

Appius Claudius pretends, that the SENATE is the only court where a patrician can legally be brought into judgment: and, to support this opinion, he is furnished by the historian with the most senseless arguments that can be imagined.

p. 453. &
seq.

THE CONSULS, and Valerius, and the majority of the senate, have more reason and temper. They do not deny that a patrician may be brought into judgment before the people: they only insist on the necessity of a previous decree of the senate, autho-

p. 460. &
seq.

rizing the assembly of the people to try and judge the accused.

2. THIS therefore was the second point, "Whether, granting the people to have the prerogative of judging patricians, they could legally exercise it in any particular cause without a previous *SENATUS CONSULTUM*, authorizing them to hear and judge that cause." The consuls say, no: the tribunes say, yes; founding their claim on the *VALERIAN LAW* for appeals to the people, in case of oppression by the nobles: which law would be rendered vain if the oppressors had the power of hindering, by the refusal of a *senatus-consultum*, the complaint from being brought by appeal before the people.

Nevertheless, the tribunes do at length, with regard to the particular cause of Coriolanus, consent to ask a *senatus-consultum*, authorizing the people to try him. This being obtained,

3. THE third point in question was, concerning the form of the assembly, in which the accused should be tried. But it is to be remarked, that (according to our historian) this question does not come into dispute, till the very hour when the people are assembled to hear the cause.

The consuls and patricians, perceiving the purpose of the tribunes to have the people vote by tribes, remonstrate against it, and make a mighty clamour. They urge the established custom of the people's voting by centuries, on all affairs, referred to them by the senate. Nevertheless, after some time spent in altercation, they yield the point to the tribunes; a point of greater moment than any they had before disputed.

THE unlikelihood of these facts (not to say the falsity of the relation) would have appeared in a stronger light, if our diligent and accurate historian had, on

occasion of this his pretended introduction of *comitia tributa*, declared the distinguishing privileges and properties of these assemblies. But, instead of instructing us fully in those points, he gives us a description of the *comitia* by centuries, which he had already given in his IVth Book; and of the *comitia tributa* says nothing but,

1. THAT in these assemblies the vote of a poor man was equal in value to the vote of a rich man. And,

2. THAT all [the citizens] had votes. (For this is intimated in the reason he gives for thinking that in this dispute the tribunes were more in the right than their opponents, viz. That the cognizance of crimes against the public equally belonged to all.)

Now the first of these does in no wise distinguish the *comitia tributa* from the *comitia curiata*.

And the second seems not to be true.

Indeed the learned writer, just now mentioned, speaking of a TRIBUNE'S right to summon the people to the COMITIA TRIBUTA, adds in a parenthesis ("where the patricians also might be present and vote, if they pleased; but could not be compelled, nor were they SUMMONED.") And it is expressly asserted by Lælius, (apud A. Gell. xv. 27.) that the patricians were not summoned to the councils called by the tribunes.

[Is qui non universum populum sed partem aliquam adesse jubet, non comitia sed concilium edicere debet.

Tribuni autem neque ADVOCANT *patricios*, neque ad eos referre ulla de re possunt: ita ne *leges* quidem propriè, sed *plebiscita* appellantur, quæ tribunis plebis ferentibus accepta sunt.] But this same Lælius (whoever he was) does not say, that the patricians might be present and vote if they pleased. And it would seem from Livy's words, above cited, [patribus ex concilio submovendis] that the senators at least, if

Taylor's
Elem. of
Civ. Law,
p. 198.

not all the patricians, were absolutely excluded from the *comitia tributa*, when held for the election of tribunes. Manutius, as to this point, speaks confidently in his comment on the following words from Livy, L. I. c. 17. *patres decreverunt ut cum populus regem jussisset, id sic ratum esset, si patres auctores fierent: hodieque in legibus magistratibusque rogandis usurpatur idem jus, vi ademptâ. Priusquam populus suffragium ineat, in incertum comitiorum eventum patres auctores fiunt.*

On this passage Manutius (cap. ix.) writes thus: *Non iis comitiis quæ plebeius magistratus habebat, quæ tributa dicebantur, sed iis quæ patricius, hoc est centuriatis et curiatis, patres auctores fiebant. Qui enim credibile est, auctoritate patrum comitia tributa confirmari oportuisse, cum PATRES (ut Lib. II. Livius docet) iis comitiis quibus plebei magistratus crearentur Vole-ronis, (tribuni plebis) LEGE SUMMOTI SINT? Vero igitur similis est, non de omnibus comitiis, sed tantum de centuriatis & curiatis QUIBUS ADESSE PATRICIIS LICEBAT, Livium intellexisse.*

We see here that Manutius not only is clear, as to the exclusion of the senators from the assemblies where the tribunes were chosen; but, by the words *quibus adesse patriciis licebat*, intimates that there were *comitia quibus adesse patriciis non licebat*, and that all the patricians were excluded from the assemblies held by the plebeian magistrates, i. e. by the tribunes and ædiles.

And this is agreeable to the definitions given of *plebiscitum* and *plebs* in the Institutes.

L. I. T. 2.
§ 4.

PLEBISCITUM est, quod plebs, plebeio magistratu interrogante (veluti tribuno) constituebat. PLEBS autem à POPULO eo differt quo species a genere: nam appellatione POPULI universi cives significantur, con-

numeratis etiam *patriciis* et *senatoribus*. *PLEBIS* autem appellatione *sine patriciis et senatoribus* cæteri cives significantur.

BUT, to return to Dionysius. Though he gives us little instruction concerning the *comitia tributa*, when he first speaks of them; yet when we come to Volero's law for choosing the tribunes in those assemblies, he mentions two or three particulars in which *comitia tributa* differed from *comitia curiata*. A previous *senatus-consultum* was requisite, before the latter could enter upon business; and, when they had done, their determinations could not be ratified, till, after due inquiry, it was found that neither the gods, nor the birds had any thing to object. But in the *comitia tributa*, no decree of the senate, no sacrifices, no approving birds, were necessary; and all business was despatched in one day.

Legem promulgavit [Volero] de electione tribunorum, eam quidem ex *curiatis*, quæ eo nomine a Romanis appellantur, in *comitia tributa* mutans. Quodnam autem sit horum comitiorum discrimen, ego declarabo. *Curiata* comitia oportebat, præcedente S. Cto. et suffragiis a plebe curiatim latis, atque post hoc utrumque signis divinis avibusque non adversantibus, tunc demum rata esse: *tributa* vero *comitia* sine S. Cto. atque sine sacrificiis, nullisque avibus addicentibus, uno die a tribulibus peragi. D. Hal. Lib. ix. p. 598. D. Tayl. Trans.

It is to be remarked that Dionysius, on the present occasion, omits mentioning, not only what Livy intimates—the exclusion of the SENATORS from the *COMITIA TRIBUTA*—but several properties of those *comitia*, which the learned have enumerated, and which (if they really belonged to those assemblies, from the time of their first institution) so diligent and accurate an historian ought not to have passed over in silence.

Perhaps it will be agreeable to the reader, if I here insert some extracts from the valuable work above-mentioned concerning the Roman *comitia*, and the difference between *LEX* and *PLEBISCITUM*. For though the matters are most of them treated in the foregoing sheets, and particularly in a long extract from Mr. KENNET's Roman Antiquities, which is given in B. i. chap. vii. yet the reader will, by a repetition, here, of such particulars as I shall have occasion for in what I have further to say on the present question, be spared the trouble of turning back to find them: and there are in what I shall transcribe from the valuable work, some excellent hints and observations not mentioned any where before in this history.

Dr. Taylor's Elem.
of the Civil
Law, p. 178.
J. 1. 2. 4.

“ A FAIR account of the several sorts of Roman law, will give us a competent view of the Roman constitution.

“ *LEX, is quod populus Romanus, senatorio magistratu interrogante constituit:*

“ *PLEBISCITUM, quod PLEBS, plebeio magistratu.*

“ The three essential differences between *lex* and *plebiscitum* are,

“ 1. The enacting parties; *POPULUS* on the one hand, and *PLEBS* on the other.

“ 2. The legislator, or person proposing: a member of the senate in that instance, and a tribune in this. And,

“ 3. (What is not expressed above) the difference of the *comitia*, or assembly in either case. [Of each of these in their order.]

I

“ *POPULUS ROMANUS—PLEBS.*

p. 179.

“ The people of Rome taken collectively, was called *POPULUS*. From which *PLEBS* differed, as species a *genere*, says Justinian, rather as *pars a toto*.

J. 1. 2. 4.

“ Every Roman was by birth either a patrician or a plebeian. The former are generally supposed to descend from the better class of citizens at the first establishment of the constitution; the sons and lineage of those whom Romulus called to his council, and whom he named patres, either *ab ætate* or *ab auctoritate*. The descendants of the rest, the *plebeii*, were for some time excluded from all honours.—They came by degrees to share in most parts of the administration, but still continued a different class of people, with different rights and distinction of character. So that the best way of conceiving this division would be to consider the patricians and plebeians as two factions in the state, blended indeed very frequently in regard to honours, rank, and condition, but still separated by descent and family interests. For instance: the distribution of the Romans into *senatores*, *equites*, & *plebem*, was not a distribution of species, or sort, but of rank, order, or degree. It is a verse of Ausonius, I think,

Martia Roma triplex, equitatu, plebe, senatu.

where plebeians are not such as lately were opposed to patricians, (for the *equites* were patricians or plebeians indifferently, and so were the senators) but those, whose *census* or estate was below the *census* required for *equites*:

*Si quadringentis sex septem millia desint,
Plebs eris.*

Hor. 1.
Epist. 1. 53.

so again, when the Romans were divided into *nobiles* and *novi*, this is also a distinction of rank, not nativity, and affects not the distinction of patricians and plebeians. *Nobiles* were such whose ancestors had borne particular offices, whether they were patricians or plebeians. So that many plebeians were *nobiles*, and many patricians not so.

“ If it be asked, whether this distinction of *populus* and *plebs* be uniformly maintained, I answer, that neither in this nor in any other instance were the Romans such slaves to language as not to depart from some settled rules upon many occasions. Thus *populus* (properly the whole people of Rome universally) is yet, in the following instance, opposed to *plebs*, or a part of itself:

Cic. x.
Fam. 35.

LEPIDUS IMP. ITER. PONT. MAX. SENAT.
POP. PL. Q. R. S. D.

“ And, on the contrary, *populus* sometimes stands for *plebs*, as distinguished from the other division of the Roman people:

Hor. 2.
Sat. 1. 69.

Primores populi arripuit, populumque tributim.

II.

“ The second difference, was the officer who made the proposal. It was a magistrate who proposed the *lex*: the *plebiscitum*, a tribune only. And as magistracies and offices among the Romans were pretty numerous, be it remembered, that it was one of the *magistratus majores*, or the magistrates of a higher order only, such, namely, *penes quos erant majora Reip. auspicia*.

“ These were either ORDINARY, as *Consul*, *Prætor*, *Censor*, or EXTRAORDINARY, as *Interrex*, *Dictator*, *Decemviri Legibus Scribendis*, *Trib. Mil. Cos. Pot. Triumviri*, R. P. C.

III.

p. 183.

“ The third difference between *lex* and *plebiscitum*, though not commonly expressed in the definitions of them, is the difference of that court or assembly, at which each of these were enacted.

“ The assemblies or *comitia* of the Romans, were *curiata*, *centuriata*, *tributa*. In the two former were the *leges* enacted, in the latter the *plebiscita*.

"COMITIA CURIATA.

"It is sufficient to understand in general, that Romulus divided his people into three tribes; and each tribe into ten *curiæ*. During the reign of the five first kings, the *comitia curiata* were the only assemblies of the R. P. Here they chose magistrates, enacted laws, determined upon peace and war, &c.

"COMITIA CENTURIATA.

"Under the former distribution, the vote of the meanest man was as effective as that of the best. Servius, the sixth king, desirous to throw the balance into the scale of the more valuable part of the people, caajoled the lower sort, by telling them, that, to ease their burden of being taxed to the exigences of the public in the same proportion with the rich, he desired them to bring in a true state of their condition, family, age, &c. upon oath. Having got this knowledge of his subjects, he distributes them afresh according to their substance and condition. He divides them therefore into six classes, which consisted of one hundred and ninety-three centuries.

"Class I. Consisted only of senators, patricians, and men distinguished by their worth and riches. In this class were eighteen centuries of horse, and eighty centuries of foot; in all ninety-eight, &c.

"In both assemblies, whether *curiata* or *centuriata*, the question was not carried by a majority of single voices, but by a majority of *curiæ* or centuries. [Whatever was voted by a majority of the *curiæ*, was referred to the SENATE.] Ο, τι ταῖς πλείοσι δόξειε Φράτριάς, τῷτο ἐπὶ τὴν Βουλὴν ἀνεφέρετο. D. Hal. 11. 14. p. 185. c.

"(This senate was composed of a few, and those of the better sort.—The *comitia* was the popular assembly of all the Roman citizens universally.)

“I descend from generals, and come to consider minutely the matter of tribes, of *curiæ*, and of centuries.

“The three tribes, into which I observed Romulus had divided the original people of Rome, were either Rhamnenses, such as came with him from Alba: Tatienses, such as came in, under Tattius the king of the Sabines: or lastly, Luceres, possibly that multitude that flocked in from all quarters, upon Romulus’s invitation.

“But this division of the Romans, into *tribus* *Γενιάς*, as D. Hal. calls them, (for it regarded the original, the stock, the descent of the constituents,) did not prevail long: there ensued under Servius another, which was a local distribution, and which the same author accordingly calls *Τοπικήν*. He divided, for instance, the city into four wards, or regions, which he called tribes also: Suburbana, Esquilina, Collina, Palatina; and denominated his people thus digested, not from the race they sprang from anciently, but the place they inhabited now. And this was also a more equal division. For the Luceres, besides being the more numerous, were daily increasing by a conflux of adventitious people, which the other were not.

Vid supr.
p. 25, 29,
90.

“The division of the Romans into tribes and *curiæ*, resembles much the Athenian distribution into *Φύλαι* or tribes, which were again made up of several distinct fraternities, called by them *Φατρίαι*.

p. 186.

“I would have it noted, that the subdivision of the Athenian tribes was twofold; the one a civil and political one, namely, *δῆμοι*: whereas the other, of *Φατρίαι* partakes more of a religious nature, as there was a temple, a place of worship, (*Φεαΐτριον*) and also rites and sacrifices appropriated to each fraternity.—

By what we can guess at this distance, the former (*δημοί*) might resemble the wards of a city in a local consideration: the latter a separation into parishes, or, perhaps, companies or fraternities, distinct in place and habitation, but united in one common interest.

“The Roman disposition was much of the same nature, but more simple; where the distribution into *curiæ* seems to answer both the purposes last mentioned.—

“—When we are asked, what became of the *comitia curiata* after the institution of the *centuriata*, namely, when the votes of the people came to be collected not by fraternities or companies, but by a new distribution of the same people, according to their rank, consequence, and substance. I answer in general, they were still retained, as we say, *dicis causâ*, or for form's sake, possibly, *quod in iis major esset sacrorum auctoritas*. So CICERO. *Prima illa comitia tenetis, centuriata et tributa: curiata tantum auspiciorum causâ remanserunt.*

p. 187.
II. Agrar.
§ 11.

“The conclusions of the *comitia centuriata* were still ratified here in show, this being the older and more constitutional assembly of the two; and it was easily conducted, thirty lictors or public officers representing the thirty *curiæ*. And so Cicero seems to distinguish between the *vera comitia curiata*, and those *ad speciem atque ad usurpationem vetustatis per triginta lictores auspiciorum causâ adumbrata*.—

Id. ibid.
§ 12.

“It must not be forgot moreover, that in process of time the number of the tribes grew up from four to five and thirty, (the first being called *Urbanæ*, the additional ones *Rusticæ*) without a correspondent enlargement of the *curiæ*. So that there was not a Roman who did not belong to some tribe, and some century, but not necessarily to some one of the *curiæ*.—

“For some time the tribes*, with their *curiæ*, comprehended the people of Rome in one manner of distribution, and the six classes, with their centuries in another, without any mixture or relation: but as Sigonius gathers from Livy, afterwards these two distributions were united or blended together. Which may be thus comprehended, *viz.* by conceiving the Roman people distributed (as they were) into thirty-five tribes, each tribe into six classes, and every class into the appointed number of centuries. Every class, which before took in all the people of Rome, of that lot, or distinction, was now broke into thirty-five shares, according to the number of the tribes.—

p. 183.

“It may be useful to take a short review of the manner of passing laws at Rome.—

“The person who had a law to propose, first wrote it over at home, and showed it his friends, before he proposed it, that there might be nothing in it contrary to the form and necessary ingredients of such a proposal.

“Next followed a proclamation appointing a day to meet upon. There was always a necessary inter-

* By the tribes, here spoken of, are meant, I presume, the four city-tribes; that these comprehended, (not all the Roman people, as the six classes with their centuries did, but) the people who inhabited Rome, or belonged to the *curiæ*, for the learned writer has just observed, that it was not necessary that every Roman should belong to some one of the *curiæ*, as it was, that he should belong to some tribe or century. And so when, in p. 186, he says, that, “after the institution of the *comitia centuriata*—the votes of the people came to be collected, not by fraternities or companies, but by a new distribution of the same people according to their rank, consequence, and substance,” the like distinction is to be remembered; because the people of whom the fraternities or companies were composed, made but a part of the assembly by centuries.

val of *tres nundinæ*, or twenty-seven days, between this proclamation and the day of assembly: that the *tribus rusticæ*, which came to Rome to market, might be acquainted with the contents of the law.——

“It was not lawful to hold this court upon the very day of the *nundinæ*; but it was held, commonly, upon the day after. For the *nundinæ* were *dies nefasti*. p. 189.

“—The same number of days was observed in summoning those *comitia*, which were held for the election of magistrates: that the candidates might have time to apply, and the people to form their judgment.——

“The same rule was observed in all causes that were heard by the people.——

“If the proposer was of the *magistratus majores*, he commonly laid it before the senate for their approbation. The tribunes laid their *plebiscita* before the people, without consulting the senate.

“When they were assembled, a crier proclaimed the law after a clerk, that read it to him.

“Then the proposal was supported or opposed, either by the magistrates, who had this right inherent in their office, or by private people, who had first obtained this leave from the magistrate.——

“If any private man spoke, it was done before the magistrate spoke, that the latter might have no influence in swaying the former.

“This was called *legem suadere*, or *dissuadere*.—— p. 190.

“It was now the proper time for the interposition of the TRIBUNE, who by his VETO had a power of putting a stop to all business, which was called *legi intercedere*. If nothing of this kind interfered, after some religious ceremonies, they proceeded to what was called *sortitio*, which was thus: after the establishment of the classes and centuries, it prevailed for

p. 191.

some time; that the centuries of the first class, which was a balance for all the rest, were called to give their votes first, which frequently determined the whole process. For, if they concurred in opinion, it was needless to take the sense of the rest.—If there was a necessity, the others were called in their order, till a majority of the centuries was obtained. This method after some continuance was altered, and the centuries not called out by any pre-eminence, but by lot. A box (*urna* or *sitella*) was produced, and the names of thirty-five tribes, upon billets or tickets, thrown in; and, the box being shaken, each tribe voted in the order in which they were drawn out. And not only the tribe, but the century under that tribe, was determined in the same method*. For we have lately seen the centuries thrown into the tribes, and involved in that distribution. The tribe which was first drawn was called the prerogative tribe, and the century in that tribe, the prerogative century. And the person first called *honoris causa*, in that century, was called *primus*.——

“The lots being drawn for the tribes and centuries, the proposer of the law directed every man to repair to his tribe or century by these solemn words:

“SI VOBIS VIDETUR, DISCEDITE QUIRITES.

p. 192.

“The votes were given for some time by word of mouth.—But about the year 614, A. Gabinius carried a question—That every man should vote in the election of officers, not by word of mouth, but by ballot. Two of these were given to every voter, the one inscribed A. i. e. ANTIQUO, the other, U. R. i. e. UTI

* Mr. Kennet seems to differ from Dr. Taylor in this particular, making the prerogative tribe and the prerogative century only to be determined by lot, the rest to be *jure vocatæ*, because they were called out according to their proper places. Vid. super. p. 94, 95.

ROGAS. Two years afterwards, L. Cassius Trib. Pl.—proposed a law that such ballots should be used also in the courts of judicature, inscribed A. *i. e.* ABSOLVO; C. CONDEMNO; N. L. NON LIQUET.—

“Next to this, A. 621. C. Papirius Carbo introduced them into the *comitia* for the purpose we are now considering:—

“—After the receipt of their billets, [from the *distributores*, called also *diribitores*, and *divisores*] they [the voters] were to proceed over an extempore stage of planks, raised on purpose, and called, from their likeness, *pontes*; in number thirty-five, or one hundred and ninety-three, according as the *comitia* were *tributa* or *centuriata*. From the straightness of the way I should conclude, they voted *viritim*.—

“As at one end of the bridge they received their billets from the hands of the *diribitores*, so at the other they returned them to the officers called *rogatores*, who were placed there with boxes or urns to receive them. But as both these offices lay open to corruption,—they were sometimes checked by inspectors, *custodes*, placed over them; sometimes people of the first character, to prevent collusion, would execute these offices in their own person.—

p. 193.

“The people [the voters] after they had given their votes were immediately inclosed behind rails or *cancelli*, set up for that purpose, (to prevent confusion in the assembly, or any foul play) and called with great simplicity, from their likeness to sheep-pens, OVILIA.—

“After each tribe (or century) had passed by, the suffrages or votes of that tribe (or century) which had been marked with dots or points, were cast up:—Hence in Horace:—*Omne tulit punctum*.—

p. 198. ~

“The power of this officer [the tribune of the commons] consisted in two things, in *prohibendo* and in *rogando*. In virtue of the former, he had a place in the senate, but no vote, and by his single negative, or *veto*, by the single *veto* of any one of the number, all proceedings were stopped.

“In virtue of the other, viz. *rogando*, he had a right to summon the people to the *comitia tributa*, (where the patricians also might be present and vote, if they pleased, but could not be compelled, nor were they summoned) and there propose a question, which, if it passed into a law, was therefore called *plebiscitum*, i. e. *scitum plebis*.

Festus in V.

“*Scita plebis appellantur ea, quæ plebs suo suffragio sine patribus jussit, plebeio magistratu rogante.*

“For *sciscere*, *scire*, like *γινώσκειν* of the Greeks, is the same with *statuere*.—

p. 199.

“These laws at first bound only themselves, not the patricians, and were not properly laws, but owed their strength chiefly to compact and connivance, rather than proper authority, which they had not, *ob defectum majestatis*.

“Afterwards—they bound the whole people.—

The learned writer gives “the history of these proceedings as they are related by some who seem [he says] to have considered them most accurately,” [and he refers to *Funccius de senect. L. L.* page 445, as if he borrowed the history from him.]

“*A. U. C. 260. Secessio in Montem Sacrum.* The constitution of the tribunitial power, and a decree. *Ut id ratum esset, quod plebs ad se per trib. pleb. latum jussisset.* Livy 11. 33*.

* [There seems to be some mistake here; for Livy does not mention in 11. 33. nor, I believe, any where else, a decree made *A. U. C. 260.* *Ut id ratum esset, &c.*]

"A. U. C. 306. A second secession in *Montem Aventinum*, M. HORATIUS Barbatus, and L. Valerius Potitus Coss. the year of the abdication of the *Decemviri*, LEX HORATIA, ut quod *tributum plebs jussisset, populum teneret*. Qua lege tribuniciis rogationibus telum acerrimum datum est. Liv. 111. 55.

"A. U. C. 415. Publius Philo dictator. A law to explain and amend the act of 306, where the word was *populum*; viz. that the *plebiscita* should oblige all the *Quirites*. Liv. viii. 12. This dictator is sometimes called *Pubilius*, and this law LEX PUBLILIA.

"A. U. C. 467. LEX HORTENSIA. *Hortensius dictator; secessio in Janiculum*. [Epit. Liv. Lib. xi.] The patricians had attempted to frustrate the *lex Horatia*. And now the people were pacified with the ratification of it, by the *lex Hortensia*.

"*Tribuni neque advocant patricios, neque ad eos referre ulla de re possunt: ita ne leges quidem proprie, sed plebiscita appellantur, quæ tribunis pl. ferentibus accepta sunt*. QUIBUS ROGATIONIBUS ANTE PATRICII NON TENEBANTUR, DONEC Q. HORTENSIVS DICTATOR EAM LEGEM TULIT, ut eo jure, quod *plebes statuisset omnes Quirites tenerentur*. Gell. xv. 27.

"Q. Hortensius dictator, cum *plebs secessisset in Janiculum, legem in Esculeto tulit, ut quod ea jussisset, omnes Quirites teneret*. Plin. xvi. 10.

"This history is, in some parts of it, controverted by other writers.

"Thus *plebiscita* became laws.—

p. 200.

"To close with the

"COMITIA TRIBUTA.

"We have seen the distinction between the *comitia curiata*, and the *comitia centuriata* of the Romans:—it is proper to consider the third sort, the *comitia tri-*

buta. The account given of each of these by a writer in A. Gellius stands thus :

“ *Quum ex generibus hominum suffragium feratur, curiata comitia esse ; quum ex censu & ætate, centuriata ; quum ex regionibus et locis, tributa.* xv. 27.

“ Forgetting therefore that there ever were such assemblies as the *curiata*, we find the sense of the Roman people ordinarily taken in that council, which Servius established by a digestion of his subjects according to age, quality, and condition, and called it the *comitia centuriata*. It was in this they held the elections of magistrates, the trials of offences, the deliberations about peace and war ; and here were all matters adjusted relating to legislation, to adoptions, and to last wills and testaments. In a word, it was the only assembly for transacting public business.

“ Upon this account it was never called but by the officers of the first distinction, and held with very extraordinary rites and solemnities, *viz.* with those kinds of religious services, which were appropriated to the patricians, to the exclusion of the other part of the subjects.

“ *Pencs quos igitur sunt auspicia more majorum ? nempe pencs patres. Nam plebeius quidem magistratus nullus auspicato creatur. Nobis adeo propria sunt auspicia, ut non solum quos populus creat patricos magistratus, non aliter, quam auspicato, creet : sed nos quoque ipsi sine suffragio populi auspicato interregem prodamus, & privatim auspicia habeamus, quæ isti ne in magistratibus quidem habent.* Liv. vi. 41.

“ 1. This was therefore one great and essential difference between the two assemblies [the *centuriata* and the *tributa*.]——

p. 201.

“ Hence it was, that the patricians being seized of the *auspicia*, and many religious rites, would frequently disappoint the commons (who had an interest

in a bill, or a point to carry) under a pretence of religion, and make an adjournment, in order to gain time for canvassing. It was called *obnunciare* when they reported the auspices to be unfavourable.—

“ But the *comitia* by tribes had nothing of all this, were opened with little or no ceremony, were not disturbed by the report of any bad omens, and did not admit of adjournment.

“ But other differences we find many and material.

“ 2. In the one case the senate was to be consulted, in the other it needed not.—

“ 3. Besides the difference between *lex* and *plebiscitum*, CAPITAL CRIMES, and those of a higher nature, were cognizable in the *comitia centuriata* ONLY: in the other [the *tributa*] the punishments never extended beyond fine and banishment.—

“ 4. The general sense of the people (universally) was better had, when the suffrages of every individual were equally valid. When Rome voted by her centuries, the balance was with the better sort: and that multitude which composed her lowest century was very rarely consulted.—

“ The thought of this assembly [the *comitia tributa*] p. 202. was first struck off by the people, in the case of Coriolanus, A. U. C. 262. The Roman *comitia* we have seen to be held principally upon these three occasions.

“ 1. For the trial of Roman citizens.

“ 2. For the election of magistrates and officers.

“ 3. For the establishment of new laws, and the abrogation of old ones.

“ When the cause therefore of Coriolanus came on, who was the idol of the better sort, and the aversion of the lower, it was impossible to convict him upon the plan of judicature which then prevailed. But Dionysius will speak for me.”

(This brings us about again to the question, which

gave occasion to the making these extracts, from the learned writer's treatise.)

Well, what says Dionysius?

He tells us in the passages * referred to by the learned

* *Ἐπιστάσης δὲ τῆς τρίτης ἀγορᾶς, ὁ μὲν ἐκ τῶν ἀγρῶν ὄχλος, ὅσος οὐπω πρότερον, συνεληλυθὼς εἰς τὴν πόλιν, ἑωθεν ἔτι κατεῖχε τὴν ἀγορὰν, οἱ δὲ Δήμαρχοι συνεκάλεν τὸ πλῆθος ἐπὶ τὴν Φυλετὶν ἐκκλησίαν, χωρὶα τῆς ἀγορᾶς περισχοῖνίσαντες, ἐν οἷς ἔμελλον αἱ φυλαὶ γήσεσθαι κατ' αὐτάς. Καὶ ΤΟΤΕ ΠΡΩΤΟΝ ἐγένετο Ῥωμαίοις ΕΚΚΛΗΣΙΑ κατ' ἄνδρος [Romano cum Lapo et Gelenio κατ' ἄνδρα] ψηφοφόρος ἡ ΦΥΛΕΤΙΚΗ· πολλὰ δὲ ἐναντιομένων τῶν Πατρικίων, ἵνα μὴ τῆτο γένηται, καὶ τὴν Λοχίτιν ἀξιέντων συνάγειν ἐκκλησίαν, ὥσπερ αὐτοῖς πάτριον ἦν.*

Quum autem dies trinundini instaret, turba ex agris, quantā nunquam ante, in urbem confluit, et summo mane forum occupavit, tribuni vero plebem ad tributa comitia vocarunt, et comitii loca funibus undique clauserunt, in quibus singulæ tribus distinctæ, et aliæ ab aliis separatæ erunt futuræ. Et tunc primum P. R. tributis comitiis viritim suffragia tulit, multum reclamantibus patribus, et impedire volentibus ne hoc fieret, atque centuriata comitia more patrio habenda censentibus.

And a little below :

Οἱ μὲν ἔν συνεγωνιζόμενοι Μαρκίῳ — ἤξιον καλεῖν τὴν ἀπὸ τῶν Τιμημάτων ἐκκλησίαν, ὑπολαμβάνοντες τάχα μὲν ἀπὸ τῆς πρώτης κλήσεως ὑπὸ τῶν ὀκτώ καὶ ἐννεήκοντα Λόχων ἀπολυθήσεσθαι τὸν ἄνδρα· εἰ δὲ μήγε, ὑπὸ τῆς δευτέρας ἢ τρίτης. Οἱ δὲ Δήμαρχοι ταῦτα ὑφορώμενοι, καὶ αὐτοὶ τὴν Φυλετικὴν ἐκκλησίαν ᾤοντο δεῖν συναγεῖν, καὶ τῷ ἀγῶνος ἐκείνῃ ποιῆσαι κυρίαν· ἵνα μήτε οἱ πένητες τῶν πλεσίων μειονεκτώσι, μήτε οἱ Φυλετικοὶ τῶν ὀπλιτῶν ἀτιμοτέραν ἔχωσι χώραν, μήτε ἀπερρίμενον εἰς τὰς εσχάτας κλήσεις τὸ δημοτικὸν πλῆθος ἀποκλείεται τῶν ἴσων ψήφων, ἰσόψηφοι δὲ καὶ ὁμότιμοι πάντες ἀλλήλοις γενομένοι, μιᾶ κλήσει τὴν ψῆφον ἐπενέγκωσι κατὰ φυλάς.

Marcii igitur Coriolani propugnatores—poscebant [centuriata] comitia, quæ ex censu fiebant; sperantes fore ut fortasse a primæ classis nonaginta et octo centuriis, sin minus, a secunda saltém, aut tertia, absolveretur. At tribuni hoc suspicati, et ipsi tributa comitia habenda esse putarunt, et id

writer, "That early in the morning of the day appointed for the trial, a more numerous crowd of people from the country appeared in the Forum than had ever been seen there before: that the tribunes called them to an assembly, by tribes, and divided the *comitium*, or place of assembly, into portions by extended cords, in order to range the tribes distinct and separate one from another: and that THEN for the first time the Roman people gave their suffrages by tribes, the patricians opposing it, and declaring that *comitia* by centuries ought to be held according to the ancient custom."

Then he tells us the old story: that in the *comitia centuriata* the centuries of the first class, which were the majority of the whole, and which consisted of the richest citizens, always voted first, and then the centuries of the second class, and then the centuries of the third class, and so on; and that the lowest classes seldom voted. And that, for these reasons, the friends of Coriolanus were for *comitia centuriata*, hoping that he would be absolved by the centuries of the first class alone, or, at least, by those of the second and third. But the tribunes, suspecting the same, were therefore for *comitia tributa*; an assembly where every citizen had a vote, and all votes were of equal value.

It is this representation of the case by Dionysius which has led the learned writer to say, (as above) that "Coriolanus was the idol of the better sort—and that it was impossible to convict him upon the plan of judicature which then prevailed." But surely no motive could be more unluckily invented by the historian, than what he has given the tribunes for desiring *comitia tributa* at this time; namely, the apprehension that Coriolanus would be acquitted, if he were tried by the centuries. This

judicium illis committendum, ut neque pauperes deteriore essent conditione, quam divites, neque tribules minus honoratum locum quam milites graviter armati, haberent; neque plebs in ultimas rejecta classes a suffragiorum æqualitate excluderetur, sed æquo suffragiorum et honorum jure omnes inter se fruerentur, et pariter vocati suffragia tributim ferrent.

motive, I say, was invented without any wit, and probably for want of memory. He forgot that he had told us, in the beginning of the story, that the flaming anger of Coriolanus against the plebeians had a particular cause, over and above the causes of anger that were common to the patricians in general; that the plebeians had put a personal affront upon him, when he stood candidate [not many months, perhaps not many weeks before] at the last election of consuls. The people, that is, the CENTURIES, had rejected him, because of his daring enterprising spirit, and the apprehension they had of his attempting the destruction of the tribunitian power; and especially because they were terrified with the multitude of patricians that appeared in his favour, and showed more zeal for his promotion, than they had ever shown in behalf of any candidate*. And this affront was

* Εἶχε γάρ τινας ἔξω τῶν κοινῶν ἐγκλημάτων, καὶ ἰδίας προφάσεις νεωστὶ γενομένας, ἐξ ὧν εἰκότως ἐδόκει μισεῖν τὰς δημοτικὰς ὑπατείας· γὰρ αὐτῷ μετιόντι ταῖς ἔγλιγα γενομέναις ἀρχαιρεσίαις, καὶ τὰς πατρικίαις ἔχοντι συναγωνιζομένους, ἐναντιωθείς ὁ δῆμος ἐκ ἑίαςσε δῆναι τὴν ἀρχήν, τὴν τε λαμπρότητα τῶ ἀνδρὸς καὶ τὴν τόλμαν δι' εὐλαβείας ἔχων, μὴ τι διὰ ταῦτα νεωτερίσῃ περὶ τὴν τῶν δημάρχων κατάλυσιν, καὶ μάλιστα δεδιὼς ὅτι συνελάμβανεν αὐτῷ πάσῃ προθυμίᾳ τὸ τῶν πατρικίων πλῆθος, ὡς εἶδεν τῶν πρότερον, ταύτης τε εἶναι τῆς ὕβρεως ὀργὴν ἐπαρθεὶς ὁ ἀνὴρ, καὶ τὴν μεταβολὴν τῶ πολιτεύματος εἰς τὸν ἐξ ἀρχῆς κόσμον ἀποκαταστῆσαι προθυμύμενος, &c.

Nam præter publicas criminationes, quandam etiam privatum ac novam causam habebat, ob quam plebeios meritis odisse videbatur, illam videlicet injuriam recens acceptam. Proximis enim comitiis illi consulatum petenti, et patricios suffragantes habenti, plebs adversata magistratum illum dari non est passa, quod illius viri claritatem, et audaciam suspectam haberet, ne forte propterea aliquid rerum novarum moliretur, et tribunitiam potestatem everteret; præcipue vero quod timeret patriciorum multitudinem, quæ nulli candidato tanta animi alacritate unquam ante fecerat, quantam erga ipsum tunc demonstrarat. Ille igitur ob hanc contumeliam irâ percitus, et mutatam reipublicæ formam in pristinum statum restituere cupiens, &c.

before he had provoked the people by his project of starving them into a surrendry of their newly acquired privileges.

It is plain therefore, that he was not the idol of the better (i. e. the richer) sort, of which the majority of the centuries consisted; and that it was very possible to convict him upon the plan of judicature which then prevailed.

The learned writer has remarked, that “The patri- cians and plebeians were two factions in the state, blended indeed very frequently, with regard to honour, rank, and condition, but still separated by descent and family-interests.” Coriolanus was probably the idol of the younger patricians, and perhaps of some of the elder; but, if he had been the idol of all the patricians, these would have been overpowered by the plebeians* in the COMITIA CENTURIATA. For we may observe that the great points which the commons carried against the nobles, in the early days of the republic, were carried in *comitia* by centuries: As, particularly, the LAW for electing the TRIBUNES in COMITIA TRIBUTA. And the LEX HORATIA, which gave the PLEBISCITA, made in COMITIA TRIBUTA, the force of LAWS binding the whole Roman people.

p. 179.

Year of
R O M E
CCLXXXIII.
Y. of R.
CCCIV.

And doubtless it was in *comitia centuriata* that Coriolanus (in his absence) and Menenius (after trial) were condemned, and Servilius (after trial) acquitted.

Y. of R.
CCLXIII.
Y. of R.
CCLXXVIII.

The learned writer tells us (as we see above) that “CAPITAL CRIMES were cognizable in the *comitia centuriata* ONLY: in the other [the *tributa*] the punishments never extended beyond fine and banishment.”

Y. of R.
CCLXXXIX.
Elem. &c.
p. 201.

* — Ἐγνώσαν [οἱ δῆμαρχοι] ὡς ἐν τῇ ψήφῳ ἐστὶν ἅπαν τὸ τῆς πόλεως κράτος, ἧς αὐτοὶ κρατήσουσι πλείεες ἡμῶν ὄντες.

—Cognoverunt [tribuni] totam reipublicæ potentiam in suffragiis positam esse, quam facile obtinebunt, quod numero nos vincant. D. Hal. puts these words into the mouth of Coriolanus. L. vii. p. 436.

Yet according to Dionysius, the *comitia tributa*, in the first years after their introduction, were employed in nothing, that appears, but trying CAPITAL CAUSES. For though Coriolanus was only banished, the historian intimates*, that it was not for want of power in the assembly, or want of inclination in the tribunes, to take away his life, but because these magistrates feared that the people would acquit him rather than come into a sentence of death against him. (And to this may be added, that perpetual banishment was a capital punishment.)

And so likewise, by the Greek historian's account, both Menenius and Servilius were, in *comitia tributa*, tried for their lives: though one was only fined, and the other acquitted. And Livy says expressly that Menenius was tried† for his life, and condemned, though the sentence was afterwards changed to a fine.

Now, if Livy's report be true, we must agree, either that Menenius was not tried in *comitia tributa*, as Dionysius pretends; or that those *comitia* took cognizance of capital crimes, which is generally denied.

BUT that the reader may the better judge what dependence is to be had on the authority of the Greek historian, with regard to the point in question, I shall give a short summary of his account of Coriolanus's affair, as far as it concerns *comitia* by tribes.

Vid. supra,
p. 197.

THE thought of trying Coriolanus in *comitia tributa* is first started by Brutus (now ædile) in a private

D. Hal. L.
vii. p. 469.

* Ἀνέδωκαν οἱ δῆμαρχοι τὴν ψῆφον ταῖς φυλαῖς, τίμημα ἐπιγράψαντες τῇ δίκῃ φυγὴν αἰδιον, κατὰ δέος, οἶμαι, τῷ μὴ ἀν' ἀλῶναι τὸν ἄνδρα, θανάτῳ αὐτὸν τιμήσαντες.

Tribuni litem exilio perpetuo æstimarunt, & tribus in suffragia miserunt, quia (ut existimo) verebantur ne is absolveretur, si eum morte mulctandum proposuissent.

† In mulcta temperarunt tribuni: quum capitis acquisissent, duo millia æris damnato mulctam edixerunt. Liv. L. ii. c. 52

conference between him and the tribune Sicinnius; and we may suppose the intention of proceeding in that method to be, for some time, a secret known only to the tribunes and ædiles.

But this secret is seemingly betrayed by Decius, one of the tribunes, chosen by the rest to be their speaker, in their conference with the senate. The tribunes had in a private meeting with the consuls yielded so far to their pressing instances, as to consent to ask a *senatus-consultum*, authorizing the people to bring Coriolanus into judgment before them. Decius's task, therefore, is to convince the fathers of the reasonableness of what is demanded. In the close of his argumentation he is made to speak of "summoning the accused to a just and legal trial, where the whole people, divided by tribes, may give their votes, after being sworn*."

Not to dwell on the legal trial, authorized by neither law nor custom, the secret, I say, seems to be betrayed by Decius: but that it was only whispered or muttered to himself, and not really discovered, is plain:

1. First, Because, in the debate, no notice is taken of it, though a much more material point than what they dispute about.

2. Because the arguments, used on both sides, necessarily imply, that the trial of the accused before the people, which the tribunes demanded, could mean nothing but a trial in *comitia* by centuries.

For with what propriety could Decius plead the law of Valerius Poplicola for appeals to the people, if by the people was to be understood an assembly of the people by tribes? Poplicola's law could regard such assemblies of the people only as were, at that time,

* Επὶ δίκην αὐτὸν ἴσῃν καὶ νομίμῳ, προκαλεσμένοι, περὶ ἣν πάντα ἡ πλῆθος μερίσθῃσά κατὰ φυλάς, ἐνδοκὸν ἐποίσει τὴν ψήφον.

D. Hal, l.
vii. p. 451.

D. Hal. L.
vii. p. 462.

constitutional and in use; at which time neither *comitia tributa*, nor even tribunes, had ever been heard of.

And when Valerius (brother of Poplicola) makes himself advocate for the popular cause, and is represented reasoning thus:—"As the people create the supreme annual magistrates, enact laws, abrogate laws, decree peace and war (and these are the most important affairs of the republic)—why not suffer them also to be judges in criminal causes, and especially, when a citizen is accused of aiming at the destruction of the public liberty?" What sense or truth is there in this discourse, if Valerius, by the people, did not mean the people in *comitia* by centuries? For to these assemblies, and to these only, belonged the prerogatives which he mentions.

p. 457.

And when Appius Claudius challenges Decius to name an instance, since the Valerian law was enacted, of a patrician brought into judgment before the people; how extremely foolish would this challenge have been, if by the people he had meant *comitia tributa*, a tribunal which hitherto had not existed?

3. Because by the peculiar privilege of *comitia tributa*, the *senatus-consultum*, which the tribunes with so much ardour solicit for, was not necessary to the holding an assembly of that sort; as Dionysius himself declares, in speaking of Volero's law*; and as the learned writer observes, in what has been cited from him.

4. Because we find that the consuls and patricians were surprised and disconcerted, when on the day of trial they perceived the intention of the tribunes to make the people vote by tribes. They are re-

* Τὰς μὲν φρατρίακας ψηφφορίας ἔδει, προβλευσαμένης τῆς βελῆς, &c.

Τὰς δὲ φυλετικας, μήτε προβλεύματὰς γινομένης, &c.

presented as warmly contesting the matter with the tribunes, and yielding at last with great reluctance. And this is a clear proof, that the *senatus-consultum*, which the fathers had granted, (and which the consuls are said to have read to the assembly just before entering on the trial) did not authorize the people to try Coriolanus in *comitia tributa a plebeio magistratu habita*. And if so, and if Dionysius is to be credited, what will follow? That a most important change in the constitution of the republic was effected, not only without a law, or a *plebiscitum*, but without so much as a *senatus-consultum* to authorize it. Is this credible? Would the consuls have dared to consent to such an innovation, without authority from the senate, at least? Or is it probable that the senate would have taken upon them to authorize it, without the approbation of the established legislature, the *comitia centuriata*?

But in Dionysius's relation there are other particulars which destroy its credit.

1. First his representing Coriolanus and his friends as struck dumb, quite at a loss for an answer to a charge, known by the whole assembly to be false. I mean the charge of his sharing the spoil which he got in the territory of Antium, among his dependents and creatures only; whereas he distributed it among all his soldiers, and those soldiers are present to testify it.

2. After citing, in his fourth book, the authorities of Fabius, and Cato, and Venonius (whom he calls an author worthy of credit) in proof, that there were thirty tribes at least, in the time of K. Servius Tullius, he now speaks of twenty-one only, as voting at the trial of Coriolanus. This is not like a diligent and accurate historian; and it has puzzled the commentators. The Jesuits are fully persuaded that there

Manut. de
Com. Rom.
cap. 2.

D. Hal. L.
vii. p. 465.

were but twenty-one tribes at this time; which they think evident from the story of the trial. Sigonius is of the same opinion. But Manutius having faith in Fabius, Cato, and Venenius, and supposing Dionysius to have the same, declares for thirty-one: but then he is at a loss to guess, why only twenty-one voted at the trial, and is angry with Dionysius for not clearing up the matter. To save the historian's credit, he is willing to believe, that ten of the tribes were hindered from coming by the tribunes, who suspected them of being inclined to favour the accused. M. Dacier speaks as if he were sure that this was the case. Nevertheless, from what Dionysius himself says, no such solution of the difficulty can be admitted. For he tells us expressly that all the citizens were summoned to hear the cause*. And one of the reasons which he gives, why the tribunes would have the people vote by tribes, is, that from those *comitia* no citizen was excluded, and the vote of every the meanest Roman was of equal value with that of the most noble. And he adds, "That, in this, the tribunes had more reason on their side than the opponents; for that the cognizance of state-crimes belonged equally to every citizen; and that a cause, referred to the judgment of the people, ought not to be determined by a faction of the patricians." [Nor, for the same reason, by a faction of the plebeians, which it would manifestly be, if ten tribes were excluded from voting, because suspected of differing in opinion from the tribunes.]

D. Hal. L.
vii. p. 463.

* — Προεῖπον [οἱ δῆμαρχοι] ἡμέραν ἐν ᾗ τὴν δίκην ἐμελλόν ἐπιτελεῖν· εἰς ᾗν ἈΠΑΝΤΑΣ ἡξίουν ἔχειν ΤΟΥΣ ΠΟΛΙΤΑΣ, ὡς ὑπὲρ τῶν μεγίστων διαγνοσομένων.

Diem dixerunt [tribuni] qua die finem huic iudicio imposituri erant, OMNESQUE CIVES rogarunt ut ad eam diem adessent, quod de rebus maximis essent cognituri.

And methinks it is time lost to seek a solution of this difficulty, unless some very zealous and able friend of the historian could find a way to make sense of what he says, after telling us, that twelve tribes voted against Coriolanus, and only nine for him. He adds, "So that if two tribes had acceded to the nine, the accused would have been absolved by the EQUALITY of votes, according to the law in that case provided." It is unlucky here, that no supposable different reading can reduce this passage to be an object of human understanding. What has been offered by some commentators in defence of the historian's singular manner of expressing himself, it would be inexcusable to repeat.

D. Hal. L.
7. p. 469.

But now, to crown all, these *comitia tributa*, of which the historian has said so much, prove, at last, to be *comitia curiata*, if we may regard what he tells us (L. ix. p. 603.) in speaking of the contest about Volero's bill. He represents the tribune Lætorius (or Lectorius) putting the patricians in mind of the articles of accommodation on the Mons Sacer; and then of "two laws, enacted not a great while ago, by the people; one whereby the senate were to authorise the people to try any patrician they pleased, at their tribunal; the other that the people's votes [at such trials] should no longer be taken in *comitia centuriata*, but in *comitia curiata*.*"

* Διεξελθὼν δὲ ταῦτα τὰς νόμους ἐπεδείκνυτο, ὅς ὁ δῆμος ἐπεκύρωσεν ἃ πρὸ πολλῶν, τὸν τε περὶ τῶν δικαστηρίων τῆς μεταγωγῆς, ὡς ἔδωκεν ἡ βελὴ τῷ δήμῳ τὴν ἐξουσίαν κρίνειν ὅς ἂν αὐτοῖς δόξῃ τῶν πατρικίων, καὶ τὸν ὑπὲρ τῆς ψηφοφορίας, ὡς οὐκ ἐπὶ τὴν λοχίτιν ἐκκλησίαν, ἀλλὰ τὴν κεριάτιν ἵπολει τῶν ψήφων κυρίαν. D. Hal. L. ix. p. 603.

His autem commemoratis, leges ostendit quas populus non multo ante tulerat, alteram de judiciis translatis, ut scilicet

It is this passage, I believe, (for I can observe no other of the sort) which occasions Manutius to say, (Cap. 2. de Com. Rom.) *Torquet me non leviter et illud in ejusdem Dionysii libro vii. [ix.] quod curiata comitia non distinguit a tributis; nam in judicio Coriolani in quo tribus suffragium tulisse, & ipse & Plutarchus tradunt, curias tamen & curiatum concionem nominat:—qua ratione curias admisceat, non intelligo, aliud enim esse populum curiatim, aliud tributim citare, &c.*

Whether Manutius refers to the passage which I have cited from Lib. ix. or not; it is plain that he has been teased and tormented by some inconsistencies of our historian, in relation to his *comitia* by tribes. And, I think, it is as plain, that Manutius was indiscreet, to let his repose be disturbed by so light a cause.

senatus potestatem populi dedisset judicandi quoscunque de patriciis vellet; alteram de suffragiis ferendis, ut non amplius penes centuriata, sed penes curiata comitia suffragia esse voluerit.

CHAP. XIV.

- I. *The Romans gain some victories over the Volsci and Hernici.* II. *Sp. Cassius (now a third time consul) concludes an alliance with the Hernici upon terms which displease the senate.* III. *He proposes the Agrarian law.* IV. *The opposition of the nobles to the passing of this law. The consul Virginius and even the tribunes oppose it.* V. *The artful conduct of the tribune Rabuleius to draw an advantage to the people from the dispute between the consuls.* VI. *Cassius to get his law passed brings great numbers of Latines and Hernici to Rome to vote for it. His colleague*

orders them to leave the city. VII. The senate, to quiet the contention, decree a partition of the conquered lands, but defer the execution of their decree. VIII. Cassius is arraigned before the people for treason.

I. THE Volsci soon experienced a great change in their affairs by the want of Coriolanus to command their troops. In conjunction with the Æqui they made a new incursion into the Roman territories, but the latter refusing to submit to Attius Tullius as their general, there ensued between these confederates a quarrel, that was followed by a bloody engagement, in which, says Livy, the good fortune of the Romans destroyed two hostile armies. The consuls had notice of this event, and were posted but four miles from the field of battle, yet their cowardice was such, that they made no advantage of the accident, but marched back to Rome, where they were received by the people with hootings and reproaches.

Sensible of the disadvantage of wanting skilful and courageous captains at their head, the Romans chose two consuls, for the next year, of known bravery and ability in war, Aquilius Tuscus and Sicinnius Sabinus: Aquilius gained a victory over the Hernici: and the Volsci were totally routed¹ by Sicinnius; their general Attius Tullius being slain in the battle.

II. To these consuls succeeded Spurius Cassius (who had been twice before in the same station, and had obtained a triumph) and

¹Livy says, that in the war with the Volsci there was no advantage gained on either side, *cum Volscis æquo Marte discessum est.*

Year of
R O M E
CCLXVI.
Bef. J. C.
Four hundred eighty-six.

Twenty-third
Consulship.

Plut.
p. 233.
Livy, B. 2.
c. 40.
D. Hal.
p. 531.

p. 532. &
534.

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hun-
dred eighty-
five.

Twenty-
fourth
Consulship.

D. Hal. B.
8. p. 536.

Proculus Virginius, a man of approved courage. It fell to Virginius's lot to make war with the Æqui; but these, not being prepared for fighting, retired with their effects into their towns; so that the consul (who probably was not in a condition to undertake sieges) when he had a while ravaged the open country returned with his army to Rome.

Cassius marched against the Volsci and Hernici, both which nations took the same measures as the Æqui, to avoid a battle: but growing impatient of the devastations made on their lands by the consul, they successively sent ambassadors to him to ask peace. The Volsci were the first suitors. Dionysius tells us that Cassius readily granted their request on their paying a certain sum of money and furnishing his soldiers with such clothes and provisions as they stood in need of.

And he adds, that laying aside the presumptuous thought of being on a foot of equality with the Roman republic, they, by the treaty of peace, agreed² to become her subjects.

The Hernici, thus abandoned by their allies, sued to the consul not only for peace, but an alliance with Rome, offering to submit to such just and reasonable conditions as he should prescribe. Cassius, after exacting a month's pay for his troops and some provisions, referred the ambassadors to the senate for the

² This has not the least degree of probability, as will hereafter be shown; it is more likely that the Volsci disdained an alliance with the Romans; unless by the Volsci the historian means only two cantons of them which had formerly been in alliance with the republic.

treaty of peace. The senate decreed to admit the Hernici into the friendship of the Roman people, but left it absolutely to the consul to adjust the conditions.

The treaty³ made by Cassius with these neighbours was, *mutatis mutandis*, a transcript of that concluded in his second consulship with the Latines, which, that the reader may better understand the passage of the history we are now upon, it may be proper here to insert.

“ Let there be peace between the Romans and all the Latine states, while heaven and earth endure. They shall neither make war themselves, nor raise foreign enemies against each other, nor shall either of the contracting parties suffer such enemies to pass through their territories to attack the other. Each

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hundred eighty-five.

Twenty-fourth
Consulship.

³ The record of this treaty seems to have been preserved to the time of Augustus. For Livy, B. 2. c. 33. speaking of the bravery of Coriolanus in the war against the Volsci, the same year that this treaty was made with the Latines, says, that the glory of the consul Cominius, who commanded in this war, was so much eclipsed by the gallant behaviour of Coriolanus, that if the treaty concluded with the Latines by Sp. Cassius, in the absence of his colleague, and engraven on a pillar of brass, had not been a lasting proof that Cominius conducted the war against the Volsci, his share in that expedition would have been totally forgotten.

As to the treaty of friendship and alliance now made with the Hernici, (according to D. Hal.) in the third consulship of Cassius, Livy says nothing of it, but tells us that Cassius took from the Hernici two thirds of their lands, and that it was afterwards objected to Cassius as a crime, that he had left them one third, when he might have taken all, which is totally incredible, the Hernici, according to his own account, not being reduced to that degree of subjection till one hundred and ninety years after this time,

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hun-
dred eighty-
five.

Twenty-
fourth
Consulship.

shall with all its forces defend the other when attacked from abroad ; and when a war is carried on at their joint expense, they shall equally share the spoils of the enemy between them.

All disputes about private contracts shall be judged and decided in ten days, in the courts of that nation, where the contracts shall have been made. Nothing shall be added to, or rescinded from this treaty but with the consent of all the Romans and all the Latines."

Though a treaty in this form did not import an admission of the people with whom such treaty was made to the right of Roman citizenship ; yet, that by some act this right was granted to the Latines and Hernici, we learn from Dionysius ; but it ought to be observed, that the *jus civitatis* was little more than an honorary title, except to those who removed to Rome, settled there, and conformed to the laws and religion of the Romans. Such only had the right of suffrage and the other substantial privileges of the proper citizens.

Cassius, at his return to Rome, demanded a triumph ; and though he had no spoils nor prisoners of war to adorn it, had taken no town by assault, nor had fought any pitched battle, his demand was readily granted by the senate ; who nevertheless, Dionysius would have us believe, inwardly accused him of arrogance for making the request. And the same historian represents the most ancient and most considerable of the fathers, as suspecting the consul of some mischievous design when they learnt from him, that by his treaty with the

Hernici he had put them upon the same foot with the Latines, though they had not the same title to the favour of the republic. Yet it seems, what piqued them most was his pride, in that, after the senate, declining to settle the conditions of the treaty themselves, (as he desired they would do) had referred that matter wholly to him, he did not show the senate the like respect, by a second application to them, but finished the affair without their further participation. But all these objections to the conduct of Cassius, if they were ever made before Dionysius made them, seem to have had no place at the time. The Greek historian having resolved to adopt the improbable and ill supported tale of Cassius's aspiring to be king of Rome, prepares his reader to give credit to it, by previously blasting the consul's character with a charge of inordinate pride and ambition discovered in the instances above-mentioned. But, to proceed in our story, (which, in substance, is thus related by Dionysius):

III. THE very next day after his triumph, Cassius, according to custom, convened the people to give them an account of his conduct in the war; and on this occasion he enumerated the services he had done the republic in his former consulships. He reminded the assembly that during his first he had in battle vanquished the Sabines, those rivals of Rome for empire, and reduced them to become her subjects; that in his second he had happily quieted the seditions at Rome, and had found

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hun-
dred eighty
five.

Twenty-
fourth Con-
sulship.

D. Hal. B.
8. p. 538.

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hundred
eighty-five.

Twenty-
fourth Con-
sulship.

means to prevail with those of the citizens who in anger had made a secession, to return contented to their native city; and in the same magistracy had brought the Latines, who though allied by blood to the Roman people, were ever jealous of their glory and power, to a firm and sincere union with them: that in this, his third consulship, he had forced the Volsci to peace, and had engaged the Hernici, a great and powerful nation, near neighbours of Rome, and in a condition to do her great hurt and great good, to give themselves, as it were, entirely to her. He assured them, that no man had the interest of the republic so much at heart as he had, and should always have; and concluding with promising, that by the many and great benefits he would, in a very short time, procure to the Roman people, he would surpass all those patriots who had been extolled for their popular inclinations and zeal; and with this promise, unexplained, he dismissed the assembly.

The following day having convened the conscript fathers, whom his harangue to the multitude had filled with an anxious impatience to know whereto it tended, he at once declared to them his project. He said, that, as not only the liberty of Rome, but the empire she had acquired over other states was chiefly owing to the bravery of the plebeians, he thought they well deserved that some regard should be had to their interests; and that it was but just that all the conquered lands, of which the most audacious and shameless of the

patricians had illegally got⁴ possession, should be divided among those plebeians, of whose victories they were the fruit. It was then, says Livy, that the AGRARIAN LAW was proposed for the first time.

Cassius added further, that to him it likewise appeared no more than equitable, that the poor citizens of Rome should be reimbursed⁵ whatever money they had paid for the corn, which Gelo, the Sicilian king, had made a present of to the republic, and which ought to have been distributed gratis to the people.

IV. WHILE the consul was speaking, a confused noise arose in the assembly, all the senators exclaiming at once against these proposals; and as soon as he had ended, his colleague Virginius, rising up, loudly accused him of purposing to kindle sedition in the republic; an accusation in which he was supported by the oldest and most considerable of the fathers; and especially by Appius Claudius. The city was presently divided into two factions, each with a consul at its head. In the frequent assemblies that were held of the people, Cassius had for some time a very great majority; but at length, the tribunes taking part with

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hundred eighty-five.

Twenty-fourth Consulship.

Livy, B. 2.
c. 41.

D. Hal. B.
8. p. 538.

⁴ See Vol. I. Book II. Chap. 4. where the avarice and injustice of the nobles, in relation to the public lands, are fully described.

⁵ Livy mentions this proposal as made by Cassius, not at this time, but afterwards, to recover the affections of the people, when they began to entertain a suspicion of his aiming at the tyranny.

D. Hal. B.
8. p. 539.

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hun-
dred eighty-
five.

Twenty-
fourth Con-
sulship. j

Virginius, the numbers on both sides came nearer to an equality. These plebeian magistrates, though they plainly saw how advantageous it would be to the commons to pass the law in question, were yet very unwilling that they should be obliged for it to a patrician; and Cassius himself, by one part of his project, furnished the tribunes with a plausible pretext for opposition. Dionysius is of opinion, that had his law imported no more than that the lands should be divided among the native Romans only, he would probably have succeeded in his enterprise; but that to secure to himself creatures and adherents abroad as well as at home, for promoting the views of his ambition, (this is the construction put upon it by the historian) he was for admitting the Latines and Hernici, lately made citizens of Rome, to a share in the distribution; and that, to make the Roman people relish this part of his scheme, he insinuated to them, that it would be a means more effectually to secure them in the possession of their portion of the lands; for that those two nations being united with them in one common interest, would be a support to them in case of any after attempt to dispossess them; and though their estates would not then be so considerable, yet it was better to have smaller estates with secure possession, than greater with uncertainty of holding them.

It was this article in favour of the Latines and Hernici which the tribunes laid hold of,

to defeat the whole design of Cassius, or rather to get the management of the affair out of his hands.

V. ONE day when he and Virginius were disputing before the people, Rabuleius, an artful tribune, stepping forth, told the assembly he had something to offer which he believed would put an end to the contest. Silence being presently made, he thus addressed himself to the two consuls: "The law in question, does it not consist of these two articles, a distribution of the public lands in favour of the Roman citizens, and the admission of the Latines and Hernici to share with them in that distribution?" The consuls answered in the affirmative. "And you, Cassius," continued the tribune, "are for having the people confirm both these articles, is not this your desire?"—"It is," said Cassius. Rabuleius than asked Virginius whether he had any objection to the first article. Virginius answered that he had not, and that he only opposed the second. Hereupon the tribune turning to the people, "You see," said he, "that our consuls are agreed as to the main point, which concerns your interests; let us be content with this, and leave the other article to be considered of hereafter."

VI. THE assembly highly applauded this motion, so that Cassius not knowing what to say, and being quite ashamed of his ill success, dismissed the assembly. He went home, and, pretending sickness, stirred no more abroad for some days. He spent this time in con-

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hundred eighty-five.

Twenty-fourth Consulship.

D. Hal. B.
8. p. 540.

Year of
R. O. M. E.
CCLXVII.
Bef. J. C.
Four hun-
dred eighty-
five.

Twent-
fourth Con-
sulship.

triving new expedients to compass his point. Finding that his party grew daily weaker, he, in order to strengthen it, sent privately for a great number of Latines and Hernici to come and give their suffrages for the ratification of the law proposed in their favour. Crowds of those new citizens immediately flocked to Rome; which Virginius observing published an edict, commanding all persons who were not settled inhabitants to depart from the city without delay. Cassius opposed this edict by another, which required all persons who were enrolled citizens to remain in Rome till the question of the law was decided.

VII. THE senate apprehensive lest the competition between the two factions should grow into a civil war, [and doubtless perceiving that the opposition of the tribunes to Cassius's proposal was not from any dislike to it, but from their jealousy of his popularity] assembled extraordinarily to consult measures, both to quiet the present contention, and to prevent any future attempts of the tribunes to obtain a division of the public lands among the people.

D. Hal. B.
8. p. 541.

Appius Claudius, who was the first called upon to give his opinion, declared himself loudly against the partition proposed. He said, that if the plebeians were suffered to live in idleness at the expense of the state, they would become not only useless but burthensome to it: that the state would in a short time have neither land nor money; that it would be shameful for the patricians, after having accused

Cassius of mal-administration, and of endeavouring to corrupt the people by a pernicious proposal, to give a sanction to that proposal by their consenting to it, as to a thing just and beneficial to the republic; and he begged them to consider, that should they grant the distribution demanded, the people would not hold themselves obliged to the senate, but to Cassius only, who would seem to have forced the senate to such compliance: and he then moved, that some of the most considerable members of the house might be appointed commissioners, to take an exact account of such lands as belonged to the public; and that whatever part of them should be found to have been usurped by private persons, either by force or fraud, should be instantly resumed: that when the commissioners had measured these lands and marked them by proper boundaries, one part of them should be sold, and especially those lands about which there was any contest between private men, that the purchasers might have an unquestionable title to produce against whoever should thereafter lay claim to them: that of the remainder of those lands, leases should be granted for five years, and the rents employed in providing corn and pay for the soldiers in time of war. He added, "It is no wonder, indeed, if the plebeians had rather the public lands should be divided among all the citizens, than possessed by a few, and these the most impudent of men. But the regulation which I have now proposed will hinder the people from thinking any more of the par-

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hundred eighty-five.

Twenty-fourth Consulship

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hun-
dred eighty-
five.

Twenty-
fourth Con-
sulship.

tition proposed by Cassius; for they will undoubtedly find it more eligible to receive corn and pay from the public, during the campaign, than to have the property of a slip of land, which they must cultivate with the sweat of their brow, subject at the same time to pay taxes out of the produce of it for the support of the war."

Aulus Sempronius Atratinus, who spoke next, highly applauded what Appius had said; adding however, that the worthy senator had omitted some things which seemed very proper to be considered. "I perceive (said Sempronius) he thinks as I do, that the Latines and Hernici have no just pretence to a share in those lands which Rome had conquered before her alliance with them; and that each nation has an exclusive right to dispose of its own proper territory and conquests: but when this reasonable answer is given to the demand of those new citizens, it should, in my opinion, be at the same time signified to them, that they should have their just portion of whatever lands shall be hereafter conquered by our joint forces. The appointment of commissioners to take account of the public lands, and fix their boundaries, I much approve; and I doubt not but the plebeians, when they shall see the revenue of those lands applied to the necessities of the state, will become more quiet and tractable. Yet I think there is one thing more which ought to be put into our decree, in order perfectly to conciliate the people to us. You remember, that when the consul Virginus was

asked by Rabuleius the tribune, whether he had any objection to a division of the public lands among our native citizens, he answered, "No; that his sole objection to the proposed law was the admission of the allies to a share in the distribution." And you know that it was this answer which drew the tribunes over entirely to our side, and brought the people to a temper of more moderation. How then can it suit with the honour and prudence of the senate wholly to recede from that concession? Must we not suppose that the people will be much more enraged by our breach of promise, than they would have been by a flat refusal at first of their request? My opinion therefore is, that it should be given in charge to the persons, whom you shall appoint to survey the lands, to examine what portion of them it may be proper to lease out for the uses of the public, and what portion it may be advisable to distribute among the plebeians. When the commissioners have made their report, you yourselves will judge, whether the lands allotted to the people shall be divided among all the plebeians, or only among those who have at present no land or very little. But with regard to these several regulations, as the magistracy of the present consuls is near expiring, I think they should all be referred to the care of their successors, to act therein, as they shall judge best for the good of the state. An affair of this importance is not to be adjusted in a short time. Our present consuls, being at variance, cannot be supposed so proper judges

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hundred eighty-five.

Twenty-fourth Consulship.

Year of
R O M E
CCLXVII.
Bef. J. C.
Four hun-
dred eighty-
five.

Twenty-
fourth Con-
sulship.

of what is fit to be done, as those who shall come after them will be, provided (according to our hope) they live in concord.

“ I might add, that, in many affairs, procrastination is beneficial, far from being dangerous; a single day may produce notable changes; nothing is more conducive to the welfare of a state than a good understanding between its magistrates. You have my advice: if any one has a better to offer, let him speak.”

D. Hal. B.
8. p. 544.

The senate unanimously approving these amendments to Appius's motion, a decree was drawn up to this effect: “ That ten of the oldest consulars should be named to measure the lands, and determine what part of them should be let to farm, and what part should be distributed among the people: that with regard to the allies and the new citizens, if any future acquisition of land should be made in a war, where they served in conjunction with the forces of the republic, they should have their just proportion, according to the terms of the treaties concluded with them: and that the consuls, who should be chosen at the next elections, should name the ten commissioners, be charged with the care of distributing the lands, and make all the other necessary regulations.”

It is pretty evident from this *senatus-consultum*, as well as from the close of Sempronius's speech, that the senators had not the least intention to do any thing in favour of the people, with regard to the lands in question. It

served however to still for the present the clamours of the poor, and put a stop to any further proceedings for passing Cassius's proposal into a law.

VIII. AND no sooner had Quintus Fabius and Servius Cornelius, the consuls for the new year, entered upon their magistracy, than Cæso Fabius (brother of Quintus) and L. Valerius, (nephew of the famous Poplicola) two very young men, but both at this time quæstors, brought an accusation of high crimes and misdemeanours, and even of high treason, against Cassius, before an assembly of the people.

1. The first article of their charge was, That in his second consulship he had granted to the Latines, not only the right of citizenship, which was enough in reason, and what would have been sufficient to content them, but a third part of the booty which should be taken in any war, where their forces acted in conjunction with those of the republic.

2. That whereas it would have been a sufficient indulgence to the Hernici, subdued by the Roman arms, to take no part of their lands from them, he had chose to put them upon the foot of friends rather than subjects, citizens rather than tributaries; and these too were to have a third of the spoils and land acquired in any military expedition: so that if the Romans should be desirous to reward the services of any other of their neighbours as honourably as they did those of the Latines and Hernici, they could not possibly do it, without relin-

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hundred eighty-four.

Twenty-fifth Consulship.

D. Hal. B.
8. p. 544.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty-
fifth Con-
sulship.

D. Hal. B.
8. p. 545.

quishing to them their own third, reserving nothing for themselves.

3. That, when he had formed a scheme for disposing of the public lands, without the consent of the senate or his colleague, he attempted by force to get his Agrarian law passed; a law mischievous and unjust in a double respect: for, whereas it should have been preceded by a *senatus-consultum*, so that the largess (if the senate approved it) might have been the common act of all the fathers, he had made it the act of his sole bounty; and (which was worst of all) his law itself, by which he pretended to divide gratis the public lands among the citizens, would in reality deprive the Romans of their acquisitions to give them to strangers; who, though they had no title to any part of them, were to have two-thirds.

4. That when the tribunes would have rescinded this article, he was as deaf to their remonstrances, as he had been to the advice of his colleague, the senate, and all the best citizens of Rome.

The quæstors having appealed to the knowledge of the assembly for the truth of these allegations, proceeded next to their proofs of his secretly aspiring to the tyranny.

THEY set forth, that the Latines and Hernici had furnished him with money, and prepared arms; and that the most audacious of their youth, flocking to Rome, had put themselves into his train; assisted at his dark councils;

and been his instruments and agents in many particulars.

These things being proved by the testimony of a great number not only of Roman citizens, but of men well born and of fair characters from the cities of the allies; and the people being fully convinced that Cassius was guilty, they had no regard to any thing he said in his elaborate defence. In vain did his three sons, with his other relations and friends, by the most humble supplications, intercede with the assembly in his behalf: nor had the remembrance of his noble exploits, for which he had been justly raised to the highest dignities, any effect to procure his pardon.

Nay, such a hatred they had to the very name of king, that they observed no moderation in their sentence against him; but would have his punishment capital. And to this they were likewise carried by another motive; for, as he was the ablest general of his time, they feared lest if they only banished him, he should prove a second Coriolanus.

The quæstors, after sentence pronounced, led him away to execution. This eminent senator, who had been thrice consul, and honoured with two triumphs, was cast headlong from the top of the Tarpeian rock; and the patricians had the satisfaction of destroying by the hands of the plebeians a determined champion for the plebeian cause. p. 546.

SUCH is the account which Dionysius has transmitted to us of the treasonable design of Cassius, his measures to accomplish that de-

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hundred eighty-four.

Twenty-fifth Consulship.

D. Hal. B.
8. p. 545.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty-
fifth Con-
sulship.

sign, the defeating of those measures by the joint powers of the senate and the tribunes; and the arraignment, trial, condemnation, and execution of the delinquent, presently after the expiration of his magistracy. One would hardly expect, that after such a detail of the articles of impeachment, the accusers, the witnesses, the matter of their evidence, the irresistible force of it, the intercession of Cassius's relations in his favour, and the manner of his execution, the historian should at last leave his reader at liberty to reject the whole of this detail as a mere fiction. Yet this he does. He informs us, that according to some authors, to whom many give credit, and who were worthy of it, Cassius was neither tried by the people, nor executed by their order: that nobody knew any thing of his treasonable designs, till his own father, moved by a suspicion he had entertained of him, made a strict inquiry into his conduct; that the father by his industry having discovered the whole truth, repaired to the senate-house; that presently after, when the son by his command was come thither, he accused him before the senators; and that when these had condemned him, he took him to his own house, and there put him to death⁶.

⁶ Pliny, L. 34. c. 4. and Florus, L. i. 26. follow the tradition of Cassius's being condemned and put to death by his own father; and Livy, L. 2. c. 41, speaks of it as well authorized, but thinks it more credible that he was tried and sentenced by the people. As to what Dionysius says of the father's accusing his son to the senate, the Latin historian is wholly silent; nor does he mention any

This tradition being as well authorized as the other, and the matter of it, as our historian observes, suiting very well with the manners of the Romans in those days, he thinks it ought not to be rejected as improbable; however, he is of opinion, that the other is more credible, and he gives his reasons.

1. Cassius's house was demolished [presently after his death]: which fact the historian thinks well supported by another fact, namely, that, in his time there was no house standing in the place, where Cassius's house was said to have stood five hundred years before.

2. Cassius's goods were confiscated, and sold for the use of the public; and part of the money so raised was employed to erect statues of brass to Ceres; and these facts Dionysius believes to be true, because, by the inscriptions upon certain statues of Ceres, it appeared out of whose estate the money came that paid for them.

Now, says our historian, if Cassius's father had been living, Cassius would have had no property. The property of the son's house and goods would have been in the father; and the people would never have confiscated the estate of the father for the crime of the son, especially if the father had been the accuser and punisher of his son.

particulars of the supposed trial of Cassius before the people. He seems to consider nothing as certain in this matter, but that Cassius was condemned by somebody in the consulship of Q. Fabius and S. Cornelius; that is to say, that he was then killed.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty-
fifth Con-
sulship.

D. Hal. B.
8. p. 547.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty-
fifth Con-
sulship.

“ For these reasons,” says he, “ I am more inclined to adhere to the other tradition, but I have related both, that my readers may choose as they like.”

Now with my readers' leave, I shall conclude this chapter with some arguments which perhaps may induce them to think, that Cassius was neither publicly nor privately convicted of aiming at the tyranny, but was murdered by the nobles either secretly, or by a mob which they excited to do it, in revenge for his honest attempt to strip them of their usurpations. And I am the more inclined to examine this matter, because I conceive that many readers must naturally carry along with them a prejudice against the Agrarian law, (so often the great subject of dispute between the two orders at Rome) if they have first been made to believe, that the original author of it contrived it as a means to raise himself to the tyranny.

AND first I shall observe, that the two traditions being equally authorized, and destroying one another, we have no reason from authority alone to believe either. Nor indeed does either Dionysius or Livy seem to prefer that which they adhere to before the other, on any account but the greater credibility of the fact.

And it unluckily happens, that the only reasons which Dionysius produces for thinking the public trial more credible than the private one, are mentioned by Livy as arguments used

in favour of the private trial, by those who adopt this tradition: for the demolition of Cassius's house, the sale of his goods, and the employing part of the money to erect a statue or statues to Ceres, are common to both traditions: and those who believe Cassius to have been privately put to death by his own father, cite the inscription on a statue of Ceres as a proof, that it was the father himself who demolished his son's house, consecrated his goods to Ceres, and applied a part of the money to erect a statue to that goddess: for, as Livy informs us, the inscription was this, given by the Cassian family*. And indeed a statue with such an inscription seems much less absurdly employed to prove that the father gave the statue, than that the Cassian family was plundered by the people of the money which paid for it.

It is remarkable that Dionysius avoids telling us expressly what the inscription was, and only says, that it showed plainly at whose expense the statue was erected.

But as to this statue, or these statues of Ceres, most ridiculously referred to by both sides, as proofs of what they contend for, there is a very easy way of accounting for the inscriptions upon them; and it is amazing that it should never come into the mind of Dionysius, that the family of Cassius might probably give these statues in his second consulship, when he performed the ceremony of dedicating the temple of CERES, Bacchus, and Proserpine, which the dictator Posthumius had vowed,

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hundred eighty-four.

Twenty-fifth Consulship.

B. 2. c. 41.

* Ex Cassia familia datum.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty
fifth Con-
sulship.

D. Hal. B. 8.
p. 415.

during the Latine war; for that Cassius had this honour, is related by the Greek historian himself in his sixth book.

We see then, that the very demolition of Cassius's house, and the sale of his goods, in consequence of his being convicted of treason, are facts wholly destitute of proof: for I presume that neither the void piece of ground, nor the inscriptions on the statues of Ceres, (the only vouchers produced) afford even the smallest degree of evidence.

COME we now to the probability of the trial and condemnation of Cassius by the people, as represented by Dionysius. And, on this occasion, I cannot forbear saying, that the Greek historian seems to delight in public trials, as giving him an opportunity to make speeches for the parties concerned, and to furnish evidence in the cause. He has related at large the trial of Coriolanus, described his behaviour in the assembly of the tribes, and given us the discourse he made in his defence, as things certain: yet Livy (as has been before observed in the end of chap. xiii.) without any hesitation asserts, that Coriolanus did not appear upon the summons from the tribunes, and was condemned in his absence for default. And certainly this seems more probable than that he should speak and act so much out of character; as he is represented to do by Dionysius: and the whole trial, as he has given it, is but a very lame story. Nor has he discovered any great skill in forming articles of impeachment against Cassius.

If there be nothing to engage us to believe the facts of his public trial and condemnation but the probability of them; and if these facts be no more probable, than that the charge, brought against him by the quæstors, consisted of the articles mentioned by Dionysius; the whole is doubtless a mere invention to blacken the author of the Agrarian law. For,

1. The first article of the impeachment is, that in the treaty concluded with the Latines in his second consulship, he had been too favourable to them, in granting them, besides the right of citizenship, a third of the spoils that should be taken in any war made by the joint forces of the two states. Now, whatever fault was committed in making this treaty, the senate were as guilty of it as he; for the treaty was not made by Cassius alone, but by him and the senate together. He was detained at Rome by the senate, purposely to be their minister for negotiating the alliance, which, at that time, they were very willing to make with the Latines, who had lately obliged them by many extraordinary services and marks of affection, as we learn not only from Livy but from Dionysius himself.

Nor in the treaty is there any mention of a third of the spoils. The Latines were to have an equal share. Their share did not come to be only a third, till after the treaty of Rome with the Hernici; and then only in case of a war carried on by the united armies of the three nations.

2. And this shows the impertinence of the

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty-
fifth Con-
sulship.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty-
fifth Con-
sulship.

argumentation which Dionysius puts into the mouths of the quæstors under the second article, which regards the Hernici, concerning the future inability of the republic to reward the services of any new friends. For it is evident from the tenor of the two treaties with the Latines and Hernici, that in all wars in which Rome was aided by her allies, were they more or fewer, the practice then was, that each should have their share of the booty in proportion to the number of troops they furnished for the campaign.

And whereas the quæstors are represented speaking of the Hernici as of a people subdued, it appears by their overtures to the consul, as well as by the long wars they afterwards maintained against the republic, that this was far from being their case. What they proposed to Cassius, were peace and an alliance with Rome upon just and reasonable conditions.

Nor is there the least reason to believe that Cassius, who would enter into no treaty of peace or alliance with them, of his own authority, but referred them to the senate, did, presently after, in virtue of his full powers, grant them the conditions complained of, without the privity and approbation of the senate. Add to this, that the treaty was in reality a very advantageous one for Rome, and by which the senate thought fit to abide. So that this second article is as ill-contrived as the first.

3. The third article, which accuses Cassius of originally designing to exclude the other magistrates and the senate from any share in

the glory of conferring a benefit on the people, is invented with no more wit than the foregoing. For, by the Greek historian's own account, the consul, before he mentioned the matter to the people, moved it in the senate: so that if the senate and the magistrates would have concurred with him, they might have had their share in that glory.

And it was surely a very ill-judged accusation to bring against Cassius before the people, that he had dared to propose, in their favour, a law which the nobles had not approved.

And as to his designing to give, by his Agrarian law, two-thirds of the public lands to the new citizens, it is a senseless charge, unless we can suppose that those of the Latines and Hernici who came to settle at Rome were twice the number of the old citizens.

4. And if it were true, that Cassius, against the remonstrances of the senate and the tribunes, was steady in insisting, that the new citizens should have a share in the division of the public lands; he, in this, did but follow the constant policy and practice of Rome from the foundation of the state; and to exclude those new citizens from a share of the public lands, in case of a distribution, would in effect have been a violation of the treaty of alliance:

CONCERNING the secret machinations of Cassius to attain to the royalty, the reader sees, that from the facts pretended to be proved, supposing them true, it will not follow that the Latines, the Hernici, and the Roman plebeians desired a king, or that the consul aspired to

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty-
fifth Con-
sulship.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty-
fifth Con-
sulship.

make himself a king ; and the historian himself seems to think the evidence of the treason defective, when he represents the people as immoderately severe in sentencing Cassius to death.

But, is it not surprising, that Dionysius, or those from whom he took his accounts, should be so well informed of the crimes whereof Cassius was accused, at his supposed trial, and yet know nothing, or wholly suppress what they knew of his elaborate defence? The total silence of the ancient writers upon this head, when, from what has been observed concerning the weakness of the pretended charge, it is plain that Cassius had much to say, and much to the purpose, furnishes an additional argument to those that have been offered, for believing that the whole process is a mere invention, a legend, a fable, (composed by some aristocratical writer) of which the moral intended to be inculcated on the Roman readers is obvious.

As to the other tradition of Cassius's treason being discovered by his own father, when nobody else suspected any thing of the matter, and his being executed privately by his father at home, we have already observed that, in the time of Dionysius and Livy, it was a tale which (like that of the public trial) wanted the necessary support from history or monuments, to give it a claim to credit : but as neither the Greek nor the Latin historian have mentioned any particulars of the discovery, said to be made by the father, of his son's treasonable practices, we cannot, as in the other case,

draw arguments from the pretended process itself to disprove its reality. However, I shall finish this digression with offering some reasons, why, supposing Cassius to have been formerly accused before the people or before his father, of the treason in question, (which there is no ground to believe he was) it is utterly incredible that he was guilty.

The character of Cassius may, alone, suffice for his defence against all that is mentioned by Dionysius, as given in proof of the charge. Till he proposed his Agrarian law, he was more esteemed and honoured in Rome than any other citizen. This is said by Dionysius himself; and if he had not said it, the history of Cassius, from the time that we see him first on the stage of public life, to the day that he proposed his new law, would have evinced the superior worth and reputation of the man. Passing over his abilities, as a general, displayed in his first consulship in the year 251, let us only consider the opinion which the public and the wisest men had of him as a citizen. In 255, that critical conjuncture, when the Romans, by the distress of their affairs, were constrained, for the first time, to have recourse to the dangerous expedient of a dictator, and had named Lartius, one of the then consuls, to that sovereign power, on account of his known prudence and moderation, Lartius appointed Cassius to be his general of the horse, the second dignity in the republic.

At the time of the secession, when every body declined the office of consul, the senate

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hundred eighty-four.

Twenty-fifth Consulship.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hun-
dred eighty-
four.

Twenty-
fifth Con-
sulship.

constrained Cassius to accept it, because he was highly and equally esteemed by the nobles and the plebeians, and therefore well qualified to manage the business of a reconciliation; a sure mark that he had not behaved himself as a party man, or a proud man.

And though he had been a favourer of the plebeians with regard to their demand of tribunes and other securities from oppression, yet we find that this did not hinder his promotion to a third consulship by the centuries, where the patricians had the chief influence. And the senate's referring wholly to his prudence the conditions of peace and friendship with the Hernici, (which, by the way, shows the unlikelihood of his having conducted himself unworthily, or to the dissatisfaction of the senate, in the treaty he before made with the Latines,) and their decreeing him a triumph for his success in a war, wherein he had obtained no bloody victory, (supposing these facts, related by Dionysius, to be true) are cogent proofs of the great esteem and favour in which he stood with them to the very day of his proposing the Agrarian law.

There is very good reason therefore to believe that this proposal was the only treason that Cassius was guilty of.

And it is quite unimaginable, that he should make this proposal with a view to the royalty. Could Cassius be ignorant of the temper of the Roman people? Could a man of sense ever hope to become a king by the means of those men, who needed but to be made believe, that

his ambition looked that way, instantly, unanimously, and without mercy to destroy him? For such was the temper⁷ of the Romans, as Dionysius himself sets forth on the present occasion.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hundred eighty-four.

Twenty-fifth Consulship.

⁷ For the same reason we may well reject what Livy reports (B. 4. c. 13.) of the plots formed by Mælius the Roman knight, in the year 313, and afterwards by Manlius (who saved the capitol) to raise themselves to the tyranny. (B. 6. c. 14. & seq.) These imputations seem to have been invented merely to destroy two men, who by their compassion for the poor and their great liberality to them, had made themselves more popular than perhaps wise politicians thought it convenient that any man should be in a free state. It is not pretended that Mælius was tried and convicted. A dictator was created on purpose to destroy him by a stroke of power. The plenty of corn which he had provided, and with which he fed the hungry citizens gratis, during a famine, was a reproach on the fathers, and on Minucius their superintendent of provisions, for neglect of duty: and, by cutting him off as a traitor, they made to themselves a pretext for seizing his stores, and thereby shunning the trouble and expense of purchasing corn from abroad. And the people were so little persuaded of Mælius's treason, that they afterwards banished Ahala, the dictator's general of the horse, as guilty of murder in slaying their benefactor.

As to Manlius, Livy tells us, that he could not, from any writings, satisfactorily learn who were his accomplices, nor how far his schemes went; nor could find, that, at his trial before the people, his accusers objected to him any thing that indicated a design to raise himself to the royalty, except some seditious words, his largesses, and his false charge against the senate of secreting the gold, which they had collected to redeem the capitol, when Brennus besieged it. Nay, Livy is not sure that Manlius was tried and condemned by the people. Some authors, he says, report that duumvirs were appointed to judge him. And perhaps neither of these accounts deserve credit. Manlius was zealous to have the debts remitted to the insolvent.

Year of
R O M E
CCLXVIII.
Bef. J. C.
Four hundred eighty-four.

Twenty-
fifth Con-
sulship.

Nor indeed does it appear that any one Roman ever aimed at being (under any name or title whatsoever) sovereign and perpetual lord over his fellow citizens, before the times of Marius and Sylla, when luxury, avarice, and corruption, having got the ascendant in Rome, opened the way for inordinate ambition to execute the most detestable schemes against the public liberty.

poor; and that was sufficient to engage the usurious patricians to contrive his murder. I conclude these observations with remarking, that the tribunes are represented as consenting and instrumental to the destruction of Cassius and Manlius, both eminent patricians, but not to that of Mælius, who was a plebeian.

CHAP. XV.

I. The people regret the death of Cassius. The senate find means to divert them a while from the pursuit of the AGRARIAN LAW. II. The war with the Volsci breaking out afresh, the tribune Mænius protests against any levies for the service, till something effectual be done in that affair. The consuls, by a stratagem, get the better of his opposition. III. The senate endeavour to obtain the consulship for Appius Claudius. The tribunes, to hinder it, excite such a tumult, that there is no possibility of proceeding in the election. The republic falls into an interregnum. Sp. Lartius, being interrex, quiets the contention between the two parties. IV. Icilius, one of the tribunes, opposes the necessary levies for a war with the Æqui and Veientes. Appius Claudius suggests a stratagem to the senate, by which they carry their point against Icilius.

I. BY whatever means the destruction of Cassius was effected, certain it is, that the people very soon regretted the loss of him, and

not without sufficient reason. For notwithstanding the late decree of the senate for the nomination of decemvirs, to take account of the lands belonging to the public, and make a distribution of one part of them in favour of the commons, the present consuls took no more notice of that affair than if no such decree had been passed; so that the people plainly perceived they had been cheated by the senate; and they accused the late tribunes of having concurred in the deceit, basely betraying the cause of the plebeians. The present tribunes held frequent assemblies upon this business, and earnestly pressed the conscript fathers to execute their promises. To rid the senate and themselves from these importunities at home, the consuls had recourse to the old expedient of a foreign war, and began to enlist soldiers for the service: but the poorer citizens refused to give their names to be inrolled, and the tribunes supported them in this refusal. Hereupon, the consuls caused a rumour to be spread, that they were going to create a dictator, and that Appius Claudius would be the man. This dreadful report made such an impression upon the people, that they listed themselves without delay. Cornelius entered the country of the Veientes, and Q. Fabius marched against the Volsci. Both consuls had fortunate expeditions. Fabius, as if he meant to show an utter contempt of the plebeians and their complaints, sold all the spoils taken from the enemy, and put the mo-

Year of
R O M E
CCLXVIII
Bef. J. C.
Four hundred eighty-four.

Twenty-fifth Consulship.

Livy, B. 2.
c. 42.

D. Hal. B.
8. p. 548.

p. 549.
& seq.

Year of
R O M E
CCLXIX.
Bef. J. C.
Four hun-
dred eighty-
three.

Twenty-
sixth Con-
sulship.

ney into the hands of the quæstors, not giving the least part of it to his soldiers.

II. THOUGH the Fabian family was at this time odious to the commons, on account of the late behaviour of the consul Quintus, and his brother Cæso, who when quæstor had been very instrumental in the destruction of Cassius, yet the senate had influence enough, at the new elections, to get that same Cæso chosen to the consulship, with Lucius Æmilius, a man entirely devoted to their faction. During the year of these magistrates the attention of the public was wholly employed on the war with the Volsci of Antium, from whom Æmilius suffered a terrible defeat with great slaughter of his men. Strengthened afterwards by a chosen body of troops which his colleague sent to his assistance, he gained some advantage over the enemy; but as in the former action he had lost the better part of his army, he was ashamed to return to the city at the end of the campaign; and therefore staid in his camp till the expiration of his magistracy. Cæso, who had been employed to defend the territories of the Latines and Hernici, came to Rome and held the assembly for the new elections, where his younger brother M. Fabius, with Lucius Valerius, (late colleague of Cæso in the quæstorship, and deeply concerned in the murder of Cassius) were raised to the consulship by the influence of the senate, who had engaged them to stand for it. The people would have named to that magistracy certain

D. Hal. B.
8. p. 553.

consulars who did not seek it; but the president refused to receive suffrages for any but candidates.

The new consuls having asked some recruits to supply the place of those which had been slain, the last year, in the battle against the Volsci of Antium, the senate passed a decree for it: nevertheless, the poor plebeians refused obedience, complained of the cheat put upon them in relation to the Agrarian law, and implored the protection of their tribunes against the oppression of the nobles. Four of the plebeian magistrates, either gained by the senate, or, for prudential reasons, unwilling to foment contention at home, while the state was distressed by the present war, gave no heed to the clamours of the multitude; but the fifth, named Caius Mænius, loudly protested, that he would never betray the plebeians, nor suffer the consuls to levy troops, till they had first brought the senate's decree, for the partition of the lands, into an assembly of the people, and had named commissioners for putting it in execution. The consuls, to surmount this difficulty, erected their tribunal without the city, in some field near it, where the tribune, whose power and functions were confined within the walls of Rome, could give them no opposition. From thence they summoned those of the citizens whom they judged fit for the service, to come and enlist themselves. If any plebeian so summoned refused to appear, orders were immediately given to demolish his farm-house and cut down his trees.

Year of
R O M E
CCLXX.
Bef. J. C.
Four hundred eighty-two.

Twenty-seventh
Consulship.
D. Hal. B.
8. p. 554.

Year of
R O M E
CCLXX.
Bef. J. C.
Four hun-
dred eighty-
two.

Twenty-
seventh
Consulship.
D. Hal. B.
8. p. 555.

This unexpected exercise of the consular power had the designed effect upon the people. They now eagerly ran and presented themselves before the consuls to receive their commands. Two armies were presently formed, one to march against the Veientes, the other against the Volsci. The consuls, diffident of the good will of their troops, agreed to act only upon the defensive; and M. Fabius, who had to do with the Veientes, observed the agreement: but Valerius came to a desperate and bloody battle with the Volsci, without much advantage to either side. The friends of Valerius at Rome gave out, that it was through want of affection in the soldiers to their general, he had not gained a complete victory; the soldiers in all their letters laid the fault upon the incapacity of their leader.

p. 556

Livy, B. 2.
c. 42.

In the meantime Rome was alarmed with spectres and prodigies of all sorts, and these, together with the little success of the Roman arms, were found by the pontifices to be owing to the anger of the gods, who had been served by impure hands. Opiniam, an unfortunate vestal, was buried alive for incontinence, and the gods made propitious by expiatory sacrifices.

III. WHEN, after the return of the consuls to Rome, the *comitia* were held for electing new magistrates, a warm contest arose between the two orders. The patricians were for placing at the helm certain brisk active young men, who were the most unpopular, and particularly they engaged Appius Claudius, (the

son of that Appius who was looked upon as the bitterest enemy of the people) a man bold and arrogant, and very powerful by means of his numerous friends and clients, to stand one of the candidates. On the other hand, the plebeians called out for some of the elder senators, whose probity the public had experienced, and who they believed would have no views, but the welfare of the state. Each party remained obstinate in its purpose. Whenever the consuls convened the centuries for the election, the tribunes, in virtue of their prerogative, by the word *veto* dissolved the assembly; and when the tribunes called the people together for the same end (the first instance of their assuming this power) the consuls, as having the sole right to preside at the election of magistrates, withstood and hindered the proceeding. The patrician and plebeian magistrates mutually reviled each other, and being surrounded with throngs of hot-headed fellows, they grew so furious in their disputes as not to abstain from blows; nay, they seemed to be just upon the point of having recourse to arms, and beginning a civil war.

The senate, who had neither the will to yield to the people, nor the power to force them to submission, held long debates about the proper measures to be taken. Some senators declared for naming a dictator who, vested with sovereign and absolute authority, should expel the factious from the city, and, in case the consuls had taken any wrong step, correct the error; and that, having restored order in

Year of
R O M E
CCLXX.
Bef. J. C.
Four hundred eighty-
two.

Twenty-
seventh
Consulship.
D. Hal. B.
8. p. 557.

Year of
R O M E
CCLXXI.
Bef. J. C.
Four hun-
dred eighty-
one.

Twenty-
eighth Con-
sulship.

the commonwealth, he should hold the *comitia*, and propose the worthiest men for the magistracy: but others (fearing, perhaps, that the people in their present temper would not submit even to the dictatorial authority, but rather run into open rebellion) thought a gentler course the more advisable, namely, to create inter-kings, as was practised during the regal state upon any vacancy of the throne. The greater number of the fathers coming into this opinion, the short-lived magistracy was given to A. Sempronius Atratinus, and the powers of all the other magistrates ceased. Sp. Lartius, who succeeded Sempronius, held the *comitia* for the appointment of consuls. It would seem that the two parties had compromised their differences, agreed upon the men who should have the fasces, and proceeded to an election, only for form sake; for they unanimously concurred in naming to the consular dignity C. Julius Iulus, a known favourer of the plebeians, and Q. Fabius Vibulanus, a warm partisan of the nobles. Fabius had been consul three years before, and had defrauded his soldiers of the spoil taken from the enemy¹; yet the people acquiesced in this his second promotion, through the extreme joy they had

¹ Dionysius says, that Fabius had not by any act obliged the commons in his former consulship; but in this he makes a blunder; for he himself had told us, that Fabius sold the spoils, the prisoners, every thing that he took from the Volsci, and put all the money into the hands of the quæstor, to be sent to Rome. And Livy is very express upon this part of Fabius's conduct, as what made him extremely odious to the people. B. 2. c. 42.

in keeping Appius Claudius out of the magistracy.

The new consuls, after surmounting some opposition, from the discontented plebeians, to the levies, marched against the Veientes who had pillaged the territory of Rome: and this expedition, which terminated in making reprisals, was the sole exploit of their year.

These petty wars were the ordinary expedients used by the consuls to divert the people from their complaints, and to give them, at the enemy's cost, a subsistence that might make them forget their old claims. But this same people, by thus living almost continually in arms, became still more fierce and untractable, and the first interval of peace abroad was sure to revive discord at home.

IV. THE civil feuds broke out afresh at the next election of chief magistrates. After much struggling the two parties came to an accommodation upon the same foot as the year before: each named its consul. The people chose Sp. Furius: and the senate Cæso Fabius*, the man, who, when quæstor, is said to have destroyed Cassius.

The Æqui and Veientes having renewed their incursions on the lands of the republic, the consuls summoned the people to take arms; a tribune named Sp. Icilius warmly opposed the enrolments; and he loudly declared that he would make the like opposition to all the decrees that should issue from the senate, let the matter of them be what it would, till the *senatus-consultum*, relating to the public lands,

Year of
R O M E
CCLXXI.
Bef. J. C.
Four hundred eighty-one.

Twenty-eighth Consulship.

D. Hal. B.
8. p. 558.

Livy, B. 2.
c. 43.

D. Hal. B.
9. p. 559.

Year of
R O M E
CCLXXII.
Bef. J. C.
Four hundred eighty-two.

Twenty-ninth Consulship.

* A second time.

Livy, B. 2.
c. 43.

Year of
R O M E
CCLXXII.
Bef. J. C.
Four hun-
dred eighty.

Twenty-
ninth Con-
sulship.

D. Hal. B.
9. p. 560.

was put in execution; that it was just the same thing to him whether the country was possessed by foreign enemies or by domestic usurpers. In the meanwhile the Veientes and Æqui continued with impunity to ravage the territory of Rome. In this perplexity, Ap-
pius Claudius represented to the fathers, that the tribunitian power was formidable only by the union of the tribunes; that as the opposition of a single tribune, which could suspend the execution of the senate's decrees, had the same force with regard to the resolutions of his colleagues, endeavours should be used to create a division among the tribunes, and privately to engage some one of them to enter into the senate's interest. This advice was approved and followed; the senators applied themselves to gain the friendship of Icilius's colleagues, and they succeeded with all the four. These, when they had first attempted in vain to dissuade him from pursuing the affair of the Agrarian law, interposed their *veto*; and, by their assistance, the consuls completed the levies².

² We must suppose that Icilius ceased his opposition to the levies; otherwise his colleagues betrayed the prerogative of their own office.

CHAP. XVI.

I. *The troops commanded by Cæso Fabius, not liking their general, will not suffer him to gain any honour in the campaign.* II. *M. Fabius (a second time) and Cn. Manlius Cincinnatus are elected to the consulate. They obtain a signal victory over the Hetrurians, chiefly by the bravery of the Fabii, who, from this time, became popular.* III. *Cæso Fabius (a third time) and T. Virginus are chosen consuls. Cæso defeats the Æqui and Veientes.* IV. *The Fabian family undertake alone to guard the frontiers against the Veientes. Cæso, as soon as he has resigned the fasces (to L. Æmilius and C. Servilius) joins the rest of his family in quality of PROCONSUL, a new-invented dignity.* V. *The Romans carry on the war against the Æqui, Volsci, and Veientes. Æmilius, after a successful campaign against the last, is refused a triumph. He seeks to revenge himself on the senate.* VI. *In the succeeding consulship (of C. Horatius and T. Menenius) all Hetruria declares war against Rome. The miserable fate of the Fabii. The Hetrurian arms prevail. But the next year's consuls (A. Virginus and P. Servilius) give the enemy an entire overthrow.*

I. **FURIUS**, who conducted the war against the Æqui*, as he had the good will of his soldiers, made a successful campaign: but the troops of Fabius, who warred against the Veientes, (strengthened by great numbers of volunteers from the other Hetrurian states) chose rather to lose their own honour than gain him any glory. After a battle, in which they behaved themselves bravely (so long as their lives were in danger) and even routed the enemy, they refused to pursue them and take their camp, lest by making the victory complete they should procure Fabius a triumph at his return to Rome; and, not content with this, they struck their tents the following night, and

Year of
R O M E
CCLXXII.
Bef. J. C.
Four hundred eighty.

Twenty-ninth Consulship.

* The Veientes, according to Livy, B. 2. c. 43. D. Hal. B. 9. p. 560, 561.

Year of
R O M E
CCLXXIII.
Bef. J. C.
Four hun-
dred seven-
ty-nine.

Thirtieth
Consulship.
D. Hal. B.
9. p. 562.

* A second
time.

began their march towards the city. The consul, finding it impossible to govern them, put the best face he could upon the matter and sounded a retreat, and returned with them.

II. NOTWITHSTANDING the extreme hatred which the soldiers had thus showed to Cæso Fabius, the senators had influence enough to continue the consulship in the Fabian family. Marcus Fabius, brother of Cæso, was elected to that dignity* with Cn. Manlius. Much depended on the wisdom and unanimity of these two magistrates; for the republic was now threatened by a prodigious army of Hetrurians, who were encouraged to the war by the divisions in Rome, and the spirit of mutiny that had appeared among the Roman soldiers in the field.

Pontificius, one of the tribunes, would, on this occasion, have renewed the old complaint, and hindered the necessary levies: but the fathers successfully repeated the artifice of Claudius: and forces were raised to the number of 20,000, which were equally divided between the two consuls. They both passed the Tiber, and encamped near Veii, at a small distance from each other, keeping quiet within their intrenchments. This inaction was owing to their distrust of their own soldiers, whose behaviour, the last year, was not forgotten.

D. Hal. B.
9. p. 563.

At this time happened an accident which employed the divination of the augurs who attended the consul Manlius. Lightning fell upon his tent, overturned the sacred hearth, damaged his arms, killed his war horse, and

some of his servants: Those diviners declared that his camp would be taken by the enemy; upon which prediction he quitted it the same night, and joined his army to that of Fabius. The Hetrurians seized the deserted camp, and concluding that Manlius had carried ill fortune along with him, did not doubt but they should soon be masters of the other. They came confidently, therefore, and insulted the united armies in their intrenchments, calling them women and cowards, and daring them to come out and fight. Hereupon those very soldiers, who but a little before had plotted together not to fight upon any account, now gathering in crowds about their generals' tents, murmured, clamoured, and almost mutinied, because they were not instantly led to battle. Fabius laid hold of this opportunity to reproach them with their former behaviour, and to increase their ardour, by expressing a diffidence of their courage and honour. He added, "I am determined not to give the signal for battle before you have all sworn that you will return conquerors to Rome: you once deceived your general, but you will never be able to deceive the gods." He had hardly ended, when a certain plebeian named Flavoleus, now tribune of a legion, and a man of great esteem among the troops, stepping forth, "Do you suspect us, CONSUL? Hear then the oath which I am going to take! And you, fellow soldiers, do you follow my example!" Then, lifting up his sword, he swore by his faith (the most solemn oath then used by the Romans) that he would never

Year of
R O M E
CCLXXIII.
Bef. J. C.
Four hundred
seventy-nine.

Thirtieth
Consulship.

D. Hal. B.
9. p. 564.
Livy, B. 2.
c. 45.

D. Hal. B.
9. p. 565.

Livy, B. 2.
c. 45.

D. Hal. B.
9. p. 567.

Year of
R O M E
CCLXXIII.
Bef. J. C.
Four hun-
dred seven-
ty-nine.

Thirtieth
Consulship.
D. Hal. B.
9. p. 568.
Livy, B. 2.
c. 46, 47.
D. Hal. B.
9. p. 570.

return to Rome till the enemy was vanquished. Officers and soldiers, every man in the army, took the same oath; after which the generals, no longer distrusting them, gave the signal for marching, and led them out of the camp.

The Hetrurians did not decline a battle: it was fought with great obstinacy on both sides. Manlius, who led the right wing of the Roman army, and his colleague's brother, Quintus Fabius, who commanded the left, were both killed; nevertheless the victory fell to the Romans. And it was chiefly owing to the signal bravery of the consul Marcus Fabius, and his brother Cæso.

Marcus, at his return to Rome, declined the honours of a triumph, which had been decreed him by the senate; so deeply he was affected with the death of his brother Quintus, and his colleague Manlius. He solemnized their obsequies, made funeral orations on both, and, by giving to them the great praises which they deserved, secured to himself much greater; and, in pursuance of the resolution he had formed, from the beginning of his consulship, to conciliate to his family the affections of the people, he divided the wounded soldiers among the senators to be taken care of, assigning the greater number of them to the Fabii, who did not fail, on this occasion, to distinguish themselves by their humanity. From this time (says Livy) the Fabii became popular, yet not by any arts but what tended to the good of the republic.

III. CÆSO FABIUS (that very general who

B. 2. c. 47.

the year before last had been so grossly affronted) being now with the hearty good-will of the commons as well as of the nobles, raised to the consulship¹, (with T. Virginius) postponed all other business, to attempt a speedy and perfect restoration of concord between the nobles and the plebeians, towards which there seemed already to be some advances. He was hardly entered on this magistracy, when, in that view, he declared it to be his opinion, that the conquered lands rightfully belonged to those men of whose sweat and blood they were the purchase, and earnestly exhorted the senate to prevent any new endeavours of the tribunes to obtain the passing of the Agrarian law, by freely making an equal distribution themselves of those lands among the poor plebeians. But the conscript fathers rejected his motion with scorn; and some of them went even so far as to say, that, intoxicated with too much praise, that active genius, and those quick parts which had once distinguished him, were dulled and impaired.

He had better success in his military expeditions. He marched an army against the Æqui, and by the terror of his presence dispersed them without fighting. After this he hastened to the relief of the consul Virginius, who, with the troops under his command, was surrounded by the Veientes, and, without timely assistance, must have surrendered at

Year of
R. O. M. E.
CCLXXIV.
Bef. J. C.
Four hundred
seventy-eight.
Thirty-first
Consulship.
Livy, B. 2.
c. 48.

D. Hal. B.
9. p. 571.

¹ This was Cæso's third consulship, and, for six years past, the consular fasces had never been out of the hands of one or other of the three brothers.

Year of
R O M E
CCLXXIV.
Bef. J. C.
Four hun-
dred seven-
ty-eight.

Thirty-first
Consulship.
D. Hal. B.
2. p. 572.
Livy, B. 2.
c. 48, 49.

discretion.† He delivered his colleague out of danger, and made the enemy retire.

IV. NOR was this the only remarkable service that Cæso Fabius did the republic in his third consulship. The Romans being infested by the Veientes and other Hetrurians, who made frequent and mischievous incursions into the territory of Rome, and the senate being greatly at a loss how to put a stop to them; Cæso, to remedy this evil, formed a project worthy of his affection for his country. He assembled all the men of his own name and family, and proposed to them, that the Fabii should alone, at their proper expense and hazard, take upon them to secure the frontiers against the Veientes. Those generous patri- cians gladly consented to the motion, and the affair being communicated to the senate, was there approved and applauded. Early the next morning all the Fabii appeared under arms before Cæso Fabius's door. They were three hundred and six in number, of different branches, but all originally sprung from the same stock. The whole city, men, women, and children, ran in crowds to see them, and made vows to heaven for their preservation. Marcus Fabius, who had last year gained the battle of Veii, put himself at the head of the band, which was followed by about four thousand clients and vassals of the family; and he led them all to the banks of the Cremera, a little river which runs into the Tiber. There they built a fort in a steep place, surrounded it with a double ditch, and erected towers at certain distances.

D. Hal. B.
9. p. 573.

Their manner of making war was this: they divided their forces into four parts, of which one staid to guard the fort, while the other three marched into three several parts of the enemy's country and pillaged it; and nothing could be more successful than their first expeditions.

In the meantime, L. Æmilius* and C. Servilius were chosen consuls at Rome. Cæso Fabius had no sooner resigned the fasces to them, but he desired permission of the senate to join his family. The conscript fathers readily consented; and to gain him the more respect created for him a new office. He was made PROCONSUL, a title which gave the person honoured with it a power over the troops he commanded, equal to that of a consul; but no other authority.

V. THE republic being threatened with a war on the side of Hetruria, and the Æqui and Volsci beginning to ravage the country of the Latines, the consuls raised three armies. Æmilius led one against the Veientes, who were strengthened by other Hetrurians; Servilius another against the Volsci; and S. Furius (with the title of proconsul) the third against the Æqui. The Æqui fled at the approach of Furius. The Volsci repulsed Servilius, and forced him to keep within his camp. The Veientes were defeated by Æmilius, and sent a deputation to him to beg peace. Æmilius referred the deputies to the senate, and the senate in return left it to him to settle the conditions of the treaty. Hereupon the consul

Year of
R O M E
CCLXXV.
Bef. J. C.
Four hun-
dred seven-
ty-seven.

Thirty-
second Con-
sulship.

* A second
time.

D. Hal. B.
9. p. 574.

p. 575.

Year of
R O M E
CCLXXV.
Bef. J. C.
Four hun-
dred seven-
ty-seven.

Thirty-
second Con-
sulship.

D. Hal. B.
9. p. 576.

showed the Veientes great indulgence. He granted them peace without taking any part of their lands from them, or exacting any money, or ever demanding hostages. This proceeding highly offended the senate, insomuch that they rejected his request for a triumph. Nevertheless, as he was a man of merit, he was invited to employ his troops and skill in succouring his colleague, who was embarrassed with the Volscian war; and upon this condition the fathers promised to receive him again into favour. But Æmilius, exceedingly piqued at the refusal he had met with, instead of marching to assist Servilius, returned to Rome, disbanded his own army, and recalled that which Furius conducted against the Æqui. He then complained to the people of the proceedings of the senate, who, he said, was dissatisfied with his having expedited the peace, for no other reason, but their desire to stave off the execution of the Cassian law. Thus the angry consul conveyed his own resentment into the minds of the people; and from that time the tribunes renewed their invectives against the senate, and their demand of the partition of the conquered lands.

Year of
R O M E
CCLXXVI.
Bef. J. C.
Four hun-
dred seven-
ty-six.

Thirty-
third Con-
sulship.

VI. SUCH was the situation of affairs at Rome, when C. Horatius and T. Menenius entered upon the consulship. The Fabii still kept their post upon the Cremera, though after the peace with the Veientes they had, for some time, but little opportunity of exercising their courage. But at length it was put to a fatal trial. It has been already observed, that Veii

was one of the twelve lucumonies, or petty states of Hetruria. All the other lucumonies being much dissatisfied with that treaty which the Veientes had made with Rome, gave them to understand, that they must either break with the republic, or sustain a war against the rest of the Hetrurian powers united. The Veientes, in this dilemma, chose the former, and, in pursuance of that resolution, sent to the Fabii to require them to demolish their fort, and quit the frontiers. Hereupon hostilities were immediately renewed, and all Hetruria took arms against the Romans.

The Fabii had their usual success in every expedition and in every engagement, till one day they were unfortunately surprised in an ambush, out of which the most intrepid courage could not secure them a safe retreat. The Veientes lodged a whole army of Hetrurians in covered places, and posted centinels on all the eminences, to give notice when they should sally out of their ambush. Then they drove some herds of cattle into a plain at a good distance from the Cremera, as it were to feed them, under a guard that appeared to be inconsiderable. This was enough to tempt the Fabii; who marched out of their fort in a great body, and left no more men in it than were necessary to defend it from surprise. They advanced in good order; and, upon their approach, the herdsmen and their guard fled. Whilst some of the Fabii pursued the runaways to take them prisoners, others seized the booty;

Year of
R O M E
CCLXXVI.
Bef. J. C.
Four hun-
dred seven-
ty-six.

Thirty-
third Con-
sulship.
D. Hal. B.
9. p. 577.

p. 578.

Livy, B. 2.
c. 50.

Year of
R O M E
COLXXVI.
Bef. J. C.
Four hun-
dred seven-
ty-six.

Thirty-
third Con-
sulship.

and a small number of them continued drawn up in order of battle. Immediately the Hetrurians came out of their ambush, surrounded and cut in pieces all those who were busied in driving together the cattle, dispersed about the plain. As for those of the Romans who kept their ranks, and formed a regular body, they used all their efforts to gain some eminence, where, having the advantage of the ground, they might at least sell their lives dear. But in this attempt they fell into another ambush, and were quite encompassed with enemies. Nevertheless, they did not lose their courage. Drawing themselves up into a close compact body which faced every way, they renewed the fight with more vigour than ever, still bearing forwards towards a hill which they had in view. They slew many of the Hetrurians, disengaged themselves from the rest, and gained the top of the hill. Here they passed the night without any provisions, and still beset by an army of enemies. The next morning, those of the Fabii who had been left to guard the fort, being informed of the danger their relations were in, flew to their relief, leaving but a very small number behind them. As soon as the Hetrurians perceived them advancing in the plain, they detached against them some strong parties, which cut them all off to a man. Not long after, those who were on the top of the hill, being more pressed by hunger and thirst, than by any thing else, came down with the rapidity of a torrent, to break their way through

D. Hal. B.
9. p. 579.

the enemy, of whom they made a dreadful slaughter. The Hetrurians, astonished at their losses, ceased the fight for some hours, and offered these brave men to let them pass, if they would throw down their arms, and give their words that they would abandon the fort. But these conditions were deemed shameful by the Fabii; they chose rather to run the hazard of dying all together with glory, than to secure their lives by an action which they thought would reflect dishonour on their family. The Hetrurians, finding them obstinate, avoided a close engagement; and, for some time, only showered darts and stones upon them. But, at length, perceiving that their swords were most of them broken, and their bucklers split, they then, and not till then, ventured to attack them, man to man. The Fabii, now desperate, threw themselves with fury into the midst of the Hetrurian battalions, and, to arm themselves anew, snatched away the weapons of their enemies. Nay some, who lay upon the ground half dead, rose up, and came to yield their last breath in the midst of the battle. In conclusion they were all slain. The Hetrurians cut off their heads, and, carrying them in triumph upon the tops of their lances, showed them to those few of the Fabii who had staid in the fort. The latter, at this sad sight, gave themselves up to despair. They did not stay to fight from the ramparts; but aiming only to sell their lives dear, sallied out upon the enemy, without observing any order. These likewise were all cut to pieces; so that of the

Year of
R O M E
CCLXXVI.
Bef. J. C.
Four hun-
dred seven-
ty-six.

Thirty-
third Con-
sulship.

D. Hal. B.
9. p. 580.

Year of
R O M E
CCLXXVI.
Bef. J. C.
Four hun-
dred seven-
ty-six.

Thirty-
third Con-
sulship.

D. Hal. B.
9. p. 581.

p. 582.

three hundred and six Fabii, not one escaped². The Romans gave the name of Porta Scelerata, or the Accursed Gate, to the gate Carmentalis, through which the Fabii had passed when they went out of the city; and the day of their defeat was ever after reckoned among the unlucky days, whereon it was forbidden to begin any important enterprise.

The consul Menenius, who had received orders to march against the Hetrurians, might, if he had used despatch, have delivered the Fabii in their distress. He was but thirty furlongs from the field of battle when they were cut in pieces. But, perhaps, (as it was believed by many at Rome) he designedly, and out of envy and jealousy, gave them up to destruction. He had encamped his army on the side of a hill, without securing the top of it. The victorious Hetrurians, seizing the favourable opportunity, which his want of skill afforded them, got above him, attacked him from the higher ground, gave him an entire defeat, and took his camp. Thence they advanced as far

² Livy, following some more ancient historians, says, that only one of the name was left at Rome, a youth, not fourteen years of age, who afterwards repaired the family, and perpetuated it; a mere fiction, according to Dionysius, and without any shadow of probability: for it is not to be imagined, that of so considerable a number of men one only had children; and we shall find, ten years after this time, that is, in 286 of Rome, a Fabius in the consulship.

N. B. According to Dionysius there was a different account of the destruction of the Fabii, but he rejects it with contempt as wholly incredible.

as the Janiculum, which overlooked Rome, and pitched their camp on the top of it. They even passed the Tiber, and in a manner blocked up the city. But then the consul Horatius, who had been commissioned to act against the Volsci, being called home, came to a battle with the Heturians near the temple of Hope, about a mile from Rome. The success of this action was pretty equal on both sides; but in a second, near the gate Collina, the consul gained some small advantage, which revived the Roman courage. Nevertheless the enemy did not decamp from the Janiculum, and the lands having been left unsown the last year on account of the enemy's irruptions, a famine began to be felt in the city. The meaner sort got together in companies, threatening to plunder the granaries of the rich; and the tribunes encouraged their clamours and mutinies, by laying the present scarcity to the chief of the senate. The conscript fathers did every thing possible for the relief of the poor; but the case was such, that the people must either starve, or drive the enemy further off.

They marched out, therefore, under the conduct of their new consuls, A. Virginus and P. Servilius, and gave the Heturians an entire overthrow; nevertheless when, by the dead bodies which were brought to Rome to be burnt, the senate saw what numbers of Romans had perished in the action, they refused the consuls the honour of a triumph.

Year of
R O M E
CCLXXVII
Bel. J. C.
Four hun-
dred seven-
ty-five.

Thirty-
fourth Con-
sulship.

D. Hal. B.
9. p. 583.

p. 584, 585.

CHAP. XVII.

- I. *Menenius, one of the last year's consuls, is cited by the tribunes to appear before the people, and answer for his conduct in relation to the Fabii. He is condemned in a fine.*
 II. *His successor, Servilius, is prosecuted as soon as he has resigned the fasces, but is honourably acquitted. War is carried on with success against several of the neighbouring states.* III. *The consuls, L. Æmilius and Vopiscus Julius, are publicly called upon by the tribune Genucius, to name the commissioners for the partition of the lands. Finding that the consuls shun meddling in that affair, he begins a criminal process against their predecessors, Manlius and Furius, for having neglected the naming of those commissioners. The trial is prevented by the sudden death of Genucius.*

Year of
R O M E
CCLXXVII.
Bef. J. C.
Four hun-
dred seven-
ty-five.

Thirty-
fourth Con-
sulship.

D. Hal. L.
9. p. 586.
Livy, B. 2.
c. 52.
D. Hal. B.
9. p. 587.

I. PEACE abroad, and plenty in the city, being restored, the civil feuds, in relation to the Agrarian law, presently revived. The tribunes, not able to carry their point against the body of the senate, turned their rage against some particular senators, who had opposed their pretensions. Thus Menenius (the son of Menenius Agrippa) was accused before the people, by the tribunes, Q. Considius and T. Genucius, of having connived at the destruction of the Fabii when he might have prevented it. He was tried for his life; and neither the earnest solicitations of the patricians, nor his own merit, nor the remembrance of his father's, could save him from being condemned by the people almost unanimous. The tribunes, however, changed the penalty to a fine of two thousand asses in money, [about six

pounds sterling] a very exorbitant sum (says Dionysius) if we consider, that in those times men [of the first rank] earned the necessaries of life by the labour of their hands; and that Menenius's sole patrimony was his father's poverty. His friends would have paid the fine for him, but he would not suffer it. Unable to support his disgrace, he shut himself up in his house, where grief and vexation threw him into a distemper that soon put an end to his life.

II. THE tribunes fell next upon Spurius Servilius, who had succeeded Menenius in the consulship, and had gained the late victory over the Heturians. Scarce had he resigned the fasces to P. Valerius and C. Nautius, when a criminal process was commenced against him by the tribunes Cædicius and Statius, for having lost the flower of his army in that action, by pursuing the enemy too far, and rashly attacking their intrenchments; and they produced both officers and common soldiers to witness the temerity of the general, and the fatal consequences of it. This was the crime pretended by the tribunes. Perhaps the real and only crime both of him and of Menenius was the having omitted, during their consulships, to name commissioners for making the desired partition of the lands.

Servilius did not endeavour, like Menenius, to ward the stroke by deprecations, or by employing the intercession of the fathers, but, when he came to his trial, relying on his inno-

Year of
R O M E
CCLXXVII.
Bef. J. C.
Four hun-
dred seven-
ty-five.

Thirty-
fourth Con-
sulship.

Year of
R O M E
CCLXXVIII.
Bef. J. C.
Four hun-
dred seven-
ty-four.

Thirty-
fifth Con-
sulship.

Liv. B. 2.
c. 52.

Year of
R. O. M. E.
CCLXXVIII.
Bef. J. C.
Four hun-
dred seven-
ty-four.

Thirty-
fifth Con-
sulship.
D. Hal. B.
9. p. 587.
& seq.

cence and the good-will of the people, he thus addressed them : “ If, Romans, I am summoned to this tribunal, to give an account of my conduct in the late war, I am willing and prepared to do it. But, if you have already pronounced sentence against me, and I am brought hither only to be delivered up to the executioner, to what purpose should I say any thing in defence of my actions? Here is my body; do with it what you please.” He said no more; and for a few moments there reigned a perfect silence in the assembly; but the multitude calling out to him, to take courage and say what he pleased, he then proceeded to a justification of his conduct in all its parts, exposed the unreasonableness of expecting great and important victories over powerful enemies without considerable loss of men to the conquerors; and in conclusion bitterly reproached both the tribunes and the people with their condemnation of Menenius and with his death, the destruction of a man, whose father had procured them those very magistracies and laws by which they were enabled to be so wantonly cruel.

The noble confidence of the accused, together with the testimony of his colleague Virginius, who highly extolled his conduct in the battle, and ascribed to him all the glory of the success, dispersed the storm that threatened him; and this the more easily, as the people were now heartily ashamed of the sentence they had passed against Menenius. Servilius

was unanimously acquitted; and he soon after not only cleared his character from all blemish, but added a new lustre to it. A notable victory which the consul Valerius, in this same year, obtained over the Hetrurians and Sabines, was imputed chiefly to the bravery and conduct of Servilius, who had served in quality of his lieutenant.

A. Manlius, who, with L. Furius, was raised to the consulate for the new year, led the victorious army against the Veientes. But these enemies durst no longer appear in the field. They shut themselves up in Veii, where, being soon straitened for provisions, they sued for peace. The senate, to whom the consuls referred their deputies, granted them a truce of forty years, and, in reward of Manlius's successful, but unbloody expedition, they decreed him the honour of an ovation.

And now the tribunes with much warmth renewed their pursuit of the great affair; nor did the condemnation of Menenius, nor the danger of Servilius, deter Manlius and Furius from opposing with all their might the measures of the plebeian magistrates; for which opposition they were impeached very soon after they had resigned the fasces to L. Æmilius* and Vopiscus Julius.

III. CN. GENUCIUS, one of the tribunes, a daring enterprising man, and no bad speaker, called upon the new consuls to name commissioners for executing the senate's decree, in relation to the public lands. Æmilius and

Year of
R O M E
CCLXXVIII.
Bef. J. C.
Four hundred
seven-ty-four.

Thirty-
fifth Con-
sulship.

Livy, B. 2.
c. 52.
D. Hal. B.
9. p. 591.
& seq.

Year of
R O M E
CCLXXIX.
Bef. J. C.
Four hun-
dred seven-ty-three.

Thirty-
sixth Con-
sulship.

D. Hal. B.
9. p. 594.
Livy, B. 2.
c. 53.

* A third
time con-
sul.

Year of
R O M E
CCLXXX.
Bef. J. C.
Four hun-
dred-seven-
ty-two.

Thirty-se-
venth Con-
sulship.

D. Hal. B.
9. p. 595.

Julius, to elude this demand, alleged, that the *senatus-consultum* in question did not regard them; that they had not been charged with the distribution of the lands; that the decree regarded those consuls only to whom it was addressed; the immediate successors of Cassius and Virginius; that the *senatus-consulta* were not permanent laws, nor of force any longer than during the magistracies of those to whom their execution was committed.

The tribune, enraged at this evasive answer, would gladly have attacked the consuls directly; but as he foresaw it would be no easy matter to ruin them, while actually invested with the sovereign power, he turned his resentment upon Manlius and Furius, whose offices were but just expired. He cited them before the assembly of the people, to answer for their injustice in having neglected to name commissioners for distributing the conquered lands pursuant to the senate's decree: he said, the only way to engage the present consuls to execute that decree was the letting them foresee, by the punishment of their predecessors, what would be their own fate if they neglected their duty: and having sworn by all that was most sacred, that he would not desist from the prosecution, he named a day for the trial.

Livy, B. 2.
c. 54.

Manlius and Furius, though they went about humbly soliciting the favour of the plebeians, yet, by artful discourses to the younger senators, endeavoured to engage these to defend them against the plebeians by ways of

violence. They exhorted the young men “ never to aspire to the consular fasces, the robe of magistracy, or the curule chair ; which, they said, would be only the decorations of their funeral : that a consul was now but a sergeant of the tribunes to execute their will ; and in case any consul found himself inclined to exercise his proper authority, or to assert that of the senate, he would do well to set before his eyes the banishment of Coriolanus, and the death of Menenius.”

The senators, inflamed by these speeches, no longer held public but private councils ; in which it was determined absolutely to rescue the accused : and, of many wicked expedients proposed, the most audacious and most wicked was the most approved.

When the day for the trial came, Genucius did not appear in the Forum. It was imagined at first, that the patricians had found means to deter him from his purpose, and that he had deserted the cause : but presently some who had been waiting at his door, brought word that he was found dead in his bed. The plebeians on this report, like soldiers whose general is slain, immediately dispersed themselves ; and the tribunes were of all the most terrified ; finding by the example of their colleague, that the law, which made their persons sacred, gave them no security. On the other hand, the patricians exulted in a most extravagant manner. None of them seemed sorry for what had happened. Nay, those who had not been even accomplices in the murder affected

Year of
R. O M E
CCLXXX.
Bef. J. C.
Four hundred
seventy-two.

Thirty-seventh
Consulship.

Year of
R O M E
CCLXXX.
Bef. J. C.
Four hun-
dred seven-
ty-two.

Thirty-se-
venth Con-
sulship.

to be thought principals; and it was openly said, that the tribunician power ought by such methods to be kept down¹.

¹ This is Livy's account. Dionysius (B. 9. p. 506.) makes the death of Genucius to have happened the day before that which was appointed for the trial. He adds, that the tribune's body being exposed to public view, in the Forum, and there being on it no marks of poison or other violence, a notion prevailed universally, that his death was a stroke from the gods, who disapproved his enterprise: whereupon the prosecution was dropped: and the tribunes became quiet with regard to the Agrarian law.

CHAP. XVIII.

I. The haughty and imprudent behaviour of the consuls after the death of Genucius, in relation to P. VOLERO. The people rise; and the consuls hide themselves. II. VOLERO is chosen a tribune of the people. He proposes a law for electing the tribunes in comitia by tribes. The disputes on this head are interrupted by a plague. III. The senate get the consulship for Appius Claudius and T. Quinctius. These differ about the means to defeat VOLERO's project. IV. VOLERO renews the proposal of his law in an assembly of the people. Quinctius, by soft words, disposes the people to reject it: but Appius, by a speech full of pride and heat, ruins the effect of what his colleague had said. The tribune Lætorius orders Appius to be led to prison. A scuffle ensues. Night puts an end to the disorder. V. The tumult is renewed the next morning. Quinctius, by prudent management, quiets it, and prevails with the senate to let VOLERO's law pass.

I. THE consuls, flushed with this ill-gotten victory, and resolving to make the people feel their power, began now to use an extreme and (at this time) most imprudent rigour in raising

soldiers for the war. "Whatever citizen did not appear, upon the summons, to give in his name, was sure to be severely punished, right or wrong, and some they even caused to be whipped by the lictors. Nor in all these proceedings did they meet with any opposition from the tribunes, confounded and struck mute by what had happened to Genucius.

"Wrathful murmurings (the prelude to revolt) presently arose among the plebeians, more provoked by the silence of their own magistrates, than the tyranny exercised by the consuls, "That their liberty was gone: that the tribunician authority had expired and been buried with Genucius: that the commons, deprived of all assistance, must now themselves provide for their defence against the nobles; and that this was not very difficult to do: that though the consuls were attended by twenty-four lictors, these lictors were all plebeians: that imagination only made the consular power formidable: that nothing was in reality weaker or more contemptible, if men would but learn to despise it."

"While with such speeches the people were exciting one another to resistance, the consuls summoned a certain plebeian, named Publilius Volero, who had been a centurion; and was esteemed a good officer, to enlist himself for a common soldier. The young man, full of spirit, boldly refused. Instantly the consuls sent a lictor to seize him.—"Help me, TRIBUNES!" cried out Volero.—The consuls seeing nobody come to his aid, bid the lictor despatch,

Year of
R O M E
CCLXXX.
Bef. J. C.
Four hundred
seventy-two.

Thirty-seventh
Consulship.

D. Hal. B.
9. p. 596.
Livy, B. 2.
c. 55.

Year of
R O M E.
CCLXXX.
Bef. J. C.
Four hun-
dred seven-
ty-two.

Thirty-se-
venth Con-
sulship.
Livý, B. 2.
c. 55.

tear off his clothes, and scourge him. Volero checked the haste of this officer by a blow on his face that knocked him down: and then turning to the consuls, he said, "Since our tribunes had rather see a Roman citizen scourged in their presence, than be themselves murdered in their beds by you, I APPEAL TO THE PEOPLE." All the lictors were now commanded to fall upon him at once; but he, getting into the thickest of the crowd, and calling out aloud, "I appeal to the people; I implore your aid; assist me, citizens! assist me, fellow-soldiers! no protection is to be expected from the tribunes; they themselves have need of your protection;" the multitude with a desperate fury attacked the lictors, beat them, broke the fasces, and made the consuls experience, that authority without strength is a vain thing: they were forced to fly for refuge to the senate-house. Hither they summoned the fathers, and complained to them of the audaciousness of Volero, and the insolent violence of the people. On the other hand, the tribunes, who had hitherto been quiet, began now to make a mighty noise; they demanded justice upon the consuls, for that, in contempt of the *lex Valeria*, and of an appeal to the people, they had offered to scourge a citizen, a Roman of free condition, as if he had been the vilest slave: a new subject of fierce dispute between the two orders in the republic: but the elder and wiser men of the senate not thinking it prudent to contend with the headstrong rashness of the commons, prevailed

D. Hal. B.
9. p. 597.

with the rest of the fathers to drop their resentments; and so the tempest subsided for the present.

II. VOLERO, fearing the power of the consuls, and knowing that the tribuneship, if he could get it, would be his best security against their fury, stood for the office of tribune. To engage the voices of the people in his favour, he boasted publicly, that if ever he were invested with that magistracy, he would take such methods that the plebeians should never more be oppressed by the nobles. The multitude readily granted him their votes; and he entered upon the exercise of his office in the consulship of L. Pinarius and P. Furius. It was universally expected, that to revenge himself on the last year's consuls, who had treated him so ill, he would immediately commence a prosecution against them before the people; but he soon discovered, that though a man of mean birth and education, he was capable of views far more extensive and important to the interest of his party, than a mere personal revenge! Without letting fall so much as one disrespectful word against the late magistrates, he turned his force against the whole body of the patricians, and undertook to deprive them of the influence they had in the election of the tribunes of the people.

The tribunes had hitherto been chosen in *comitia* by *curiæ*. As those assemblies con-

¹ In what Mr. Vertot says on this occasion, and on some others, of the difference between the several sorts of *comitia*, he seems to be defective in the manner of expressing

Year of
R O M E
CCLXXX.
Bef. J. C.
Four hundred
seventy-two.

Thirty-seventh
Consulship.

D. Hal. B.
9. p. 598.

Livy, B. 2.
c. 56.

Year of
R O M E
CCLXXXI.
Bef. J. C.
Four hundred
seventy-one.

Thirty-eighth
Consulship.

Year of
R O M E
CCLXXXI.
Bef. J. C.
Four hun-
dred seven-
ty-one.

Thirty-
eighth
Consulship.

D. Hal. B.
9. p. 598.

sisted only of such citizens as resided in Rome, or belonged to the thirty *curiæ*, Volero thought (or pretended to think) that the senators, by the multitude of their friends, clients, and immediate dependents, had a greater influence there than was consistent with the people's entire liberty of choosing their own protectors. Moreover, it was the prerogative of the senate to give a previous consent, before those assemblies could be held, and none but patricians could preside in them. Nor was this all; for the augurs, before any thing could be validly

himself. He commonly tells us, that, in the *comitia* by tribes and by *curiæ*, "every man's vote was taken singly;" (*qu'on recueilloit les voix par tête*) but that in the centuriate *comitia* the voices were counted by centuries. From which way of speaking one would be apt to imagine that in the two first named sorts of *comitia* all affairs were decided by the majority of the citizens assembled. But this was not the case. No question whatsoever was decided in any of the three sorts of assembly by the plurality of single votes. The opinion of the plurality of the citizens in each *curia*, tribe, and century, determined the sense of that *curia*, tribe, and century. But it was the majority of the centuries, of the tribes, or of the *curiæ*, that decided the question in debate. And though, perhaps, it never happened, it was very possible to happen, that in the *comitia* by tribes, and by *curiæ*, as well as in those by centuries, a great majority of single voices should lose their point. For example; in the affair of Coriolanus nine tribes only voted for him, and twelve against him; he was therefore cast. Nevertheless, it does not hence follow that the majority of the Roman citizens were against him. For, if in each of those nine tribes which voted for him, the citizens were unanimous, and if in each of those twelve which voted against him, the citizens were divided, and only a bare majority against him, it will hence follow, that he must had a very great majority of single voices in his favour, notwithstanding his being condemned.

done, were to declare that the auspices were favourable. Now it often happened, that these ministers of religion, patricians by birth, did, to serve the interest of their order, either put off the holding of the *comitia*, or annul the election of such tribunes as were very obnoxious to the nobility, under pretence that the omens were inauspicious.

Volero moved, therefore, that for the future the election of the tribunes should no longer be in *comitia curiata*², but in *comitia tributa*; assemblies where the people's own magistrates

Year of
R O M E
CCLXXXI.
Bef. J. C.
Four hun-
dred seven-
ty-one.

Thirty-
eighth
Consulship.
D. Hal. B.
9. p. 598.

² The words of Dionysius are—*συναθαιῶν τὸν δῆμον εἰς ἐκκλησίαν νόμον εἰσφέρει περὶ τῶν δήμαρχικῶν ἀρχαιρεσιῶν, μεταάγων αὐτὰ ἐκ τῆς φρατριακῆς ψηφοφορίας, ἣν οἱ Ρωμαῖοι κεριάτην καλοῦσιν, ἐπὶ τὴν φυλετικὴν.* Lib. ix. p. 598.

And, ten years after this time, when the law for creating DECEMVIRS to form a body of laws, &c. is in agitation, the consuls and other eminent patricians reproach the tribunes with their unhallowed magistracy, because elected in COMITIA TRIBUTA, and not, as formerly, in COMITIA CURIATA, preceded by religious ceremonies. “The power, which you extorted from the senate, [at the treaty of re-union] have you not lost it by the change of the *comitia*? For you enter on this magistracy, without any previous *senatus-consultum*; you are not chosen by the CURIÆ; no sacrifices precede the holding of your *comitia*; there is nothing of piety towards the gods, or justice towards men in this magistracy of yours. And yet you will pretend to law-making; which is one of those things, to the due performance whereof, sacrifices and religious worship were always held to be necessary.”

Εἰ δ' ἂν καὶ πρότερον ἦν τις ὑμῖν δύναμις, ἣν ἐκ ἐκ τῆ δικαίᾳ βιασάμενο ἡμᾶς ἐλάβετε ὑποκατακλινομένης ἐκάσῳ πλεονεκτήματι τῆς βουλῆς, ἐχὶ καὶ ταύτην νῦν ἀπολωλέκατε τῇ μεταβολῇ τῶν ἀρχαιρεσιῶν; οὐτι γὰρ βουλῆς δόγμα ὑμᾶς ἀποδείκνυσιν ἐπὶ τὴν ἀρχήν, οὔτε αἱ φράτριαι τὴν ψήφον ὑπὲρ ὑμῶν ἐπιφέρουσιν οὔτε ἱερεῖς προθύετε τοῖς θεοῖς πρὸ τῶν ἀρχ-

Year of
R O M E
CCLXXXI.
Bef. J. C.
Four hun-
dred seven-
ty-one.

Thirty-
eighth
Consulship.

might preside; where all the citizens of the country tribes, as well as the inhabitants of Rome, would have a right of voting; and which would not be subject to any decrees of the senate, or the influence of the augurs.

αιρεσιῶν, ἀ κατὰ νόμους ἐχρῆν ἐπιλεῖσθαι, οὔτε ἄλλο τῶν πρὸς τοὺς θεοὺς εὐσεβῶν, ἢ πρὸς ἀνθρώπων ὁσίων οὐθὲν ἐπὶ τῆς ἀρχῆς τῆς ὑμετέρας γίνεται· τίνος οὖν ὑμῖν ἔτι μέτεσι τῶν ἱερῶν καὶ σεβασμοῦ δεομένων, ὧν ἔτι (ἐν τι, Cod. Vat.) καὶ ὁ νόμος ἦν, ἐξαρηνησαμένοις τὰ νόμιμα ἅπαντα. Lib. x. p. 630.

It is manifest that the words of these several passages, as they stand in Dionysius, do import, that the tribunes, till this time, were chosen in *comitia* by *curiæ*. Nevertheless, the fact is disputed. For,

In the former of these passages, Glarean* reads *κεντριάτην* instead of *κεριάτην*, and, in the latter reads *λόχοι* instead of *φράτριοι*, being of opinion, that the tribunes, until Volero's law, were chosen in *comitia centuriata*. And Dr. Hudson conforms his translation of the latter passage to Glarean's reading. Manutius likewise is of opinion, that the tribunes were, at first, elected in *comitia* by centuries.

—“Non modo consules, qui de patribus primo creabantur, sed et TRIBUNOS PLEBIS CENTURIATIS COMITIIS ESSE FACTOS, ex Livii, Lib. ii. et Dionysii, Lib. ix. plane constat; tametsi tribunorum creationem post annos xvii. a centuriatis ad tributa, Voleronis lege esse translatam iidem Livius & Dionysius narrant. Cap. x. de Com. Rom.”

Though Manutius cites here the authorities of Liv. Lib. ii. and Dionys. Lib. ix. in support of his opinion, there is nothing in the books referred to, nor I believe in any other books of those historians, that can support it. Whatever good reasons the learned critics above named might have to believe that the centuries, and not the *curiæ*, chose the tribunes till Volero's law, it seems demonstrable, that Dionysius did not mean to say so. For,

1. He relates (in Lib. vi. p. 410.) that the *φράτριοι*, which were called *CURIÆ*, elected the first tribunes after the treaty of accommodation on the Mons Sacer.

Νεμηθεῖς δὲ ὁ δῆμος εἰς τὰς τότε ἔσας φρατρίδας, ἣ ὅπως βέλεται τις αὐτὰς προσαγορεύειν, ἃς ἐκεῖνοι καλεῖσι κερίας, ἀρχοντας ἐκαυσιαίως ἀποδεικνύουσι, &c.

* Apud
Huds.
Dionys.

The plebeians in general were highly pleased with this proposal, and warmly declared for passing it into a law. The consuls on the other hand, the senate, and the whole order of

Year of
R O M E
CCLXXXI.
Bef. J. C.
Four hun-
dred seven-
ty-one.

Plebs vero divisa in *φρατρίας*, quæ tunc erant, sive quocunque alio nomine velit quis eas appellare, quas illi curias vocant, annuos magistratus creavit, &c.

Thirty-
eighth Con-
sulship.

2. If Dionysius thought that the centuries had chosen, to the tribuneship, the prosecutors of Coriolanus (men so angrily zealous against the senate and all the patricians) with what appearance of reason could he impute to those prosecutors an apprehension, that the *comitia centuriata* would absolve him, should he be tried at that tribunal; an apprehension so strong as to put them on devising a new sort of *comitia* for the trial? This argument, I confess, is not decisive; because Dionysius does not always give himself the trouble to seek an appearance of reason.

3. But what leaves no room to doubt of the historian's meaning is this, that, but a few lines before his first mention of Volero's bill, he tells us, that the contempt, which this man had shown of the consular authority, was "the principal cause which induced the *POOR*, the lowest of the people, to choose him to be one of their leaders [i. e. one of the tribunes] he himself being of mean birth, and educated in great poverty," *ὁ δὲ ἄλλό τι μᾶλλον ἀποδειχθεὶς ὑπὸ τῶν πενήτων δῆμος προσάτης* [or ὑπὸ τῶν πενήτων τῷ δῆμῳ προσάτης. Sylb. & Port.] *γένος τε γὰρ ἐκ τῶν ἐπιτυχόντων ἦν, καὶ τεθραμμένος ἐν πολλῇ ταπεινότητι καὶ ἀπορίᾳ.* Lib. x. p. 597, 8. *Hac potissimum de causa ab infima plebe tribunus est creatus (nam erat ignobili genere natus, et in magna humilitate ac egestate educatus.)* Hudson.

Now the *POOR*, the lowest of the people, (the sixth class) had but one vote, of 193, in the *comitia centuriata*; and should we extend the meaning of the words *τῶν πενήτων δῆμος* to the centuries of the fourth and fifth classes, this will not remove the difficulty, because (as has been often mentioned) the centuries of the first class, consisting of the richest citizens, made the majority of the whole: consequently the tribunes were not chosen in *comitia centuriata*, if Dionysius's authority is to decide the question.

Year of
R O M E
CCLXXXI.
Bef. J. C.
Four hun-
dred seven-
ty-one.

Thirty-
eighth Con-
sulship.
D. Hal. B.
9. p. 599.

patricians, opposed it with all their might. It became the common and the only subject of dispute between the two parties; so that the affair of the Agrarian law was for a while entirely dropped.

A dreadful pestilence, which raged both in the city and in the country, interrupted the course of this furious contest. Each man being taken up with his particular losses and his own preservation, less attention was given to the business of the public. But this calamity proving as short as it was violent, the tribunes quickly resumed the prosecution of the law proposed by Volero; and the people believing they could not succeed without his assistance, continued him in the tribuneship for the following year, in spite of the opposition of the senate and of the whole patrician party.

III. THE senate finding how strongly bent the plebeians were upon carrying their point, and how necessary it would be to set up against Volero some man of intrepid resolution, and who was not to be terrified by the clamours and menaces of the multitude, pitched upon Appius Claudius, and raised him to the consulate without his participation. He had been so far from making interest for that high post, that he had not so much as appeared in the assembly on the day of election; he was proud, but without ambition, not less zealous than his father had been for the interest of the senate, and more obstinate and inflexible. The senate gave him for a colleague T. Quinctius, a man naturally mild and insinuating,

Livy, B. 2.
p. 56.
D. Hal.
ibid.

new senate council the tribunes

and who had found means to get the love of the people, though he was looked upon to be one of the principal leaders of the other party.

The new consuls, as they were of different characters, so were they of different opinions. Appius hoping for no peace in the city, but by leading the plebeians into the field, advised that upon some pretence (not difficult to find while Rome was so hated by her neighbours) a new war should be immediately undertaken.


Quinctius was against commencing any war without necessity. He said, it was to be feared, that the force which must be employed to compel those plebeians who refused to serve, would exasperate the multitude to a desperate fury (as in the preceding consulships:) in which case either the fire must be extinguished by the blood of Roman citizens, or the consuls must debase themselves to the ignominious task of courting and soothing the very lowest of the people. As Quinctius was this month in possession of the chief authority, his colleague could do nothing without him.

In the meantime Volero proposed his law anew, and, in concert with his colleagues, added these articles to it: That the ædiles should likewise be chosen in *comitia* by tribes, and that these assemblies should have cognizance of all affairs which the people had a right to determine; an addition* (says Dionysius) which tended directly to destroy the authority of the senate, and to establish that of the people upon its ruins. The consuls, upon this new alarm, convened the fathers. Appius de-

Year of
R O M E
CCLXXXII.
Bef. J. C.
Four hundred
seventy.

Thirty-
ninth
Consulship.
D. Hal. B.
9. p. 600.

*Vid. *supr.*
232.

Year of
R O M E
CCLXXXII.
B. f. J. C.
Four hun-
dred seven-
ty.

Thirty-
ninth
Consulship.
D. Hal. B.
9. p. 601.

clared for arming all those citizens, who wished the preservation of the ancient form of government, and for treating as enemies to the state all opponents. Quinctius advised the gentler methods of reasoning and persuasion to bring the people to a sense of their true interest: the majority of the senate coming into his opinion, the consuls repaired to the *comitium*, and desired of the tribunes, that they would permit them to speak to the plebeians assembled, and would name a day. With some difficulty they obtained both requests. When the day came, and the Forum was filled with a promiscuous crowd of patricians and plebeians, whom the magistrates of the different orders had brought thither to support them respectively, Quinctius (leave to speak first asked and granted) made so artful, so pleasing, so engaging an harangue to the multitude, against the proposed law, that it is probable they would have rejected it, if Appius had not spoken after him.

But this consul, who understood no way of treating men but with a high hand, instead of taking advantage of the impression which his colleague's discourse had made in the minds of his audience, fell into invectives, which had the very same effect as the harangues of the tribunes. He upbraided the people in the most harsh and offensive terms with their secession upon the Mons Sacer, deserting their generals, to whom they had sworn obedience; carrying away the military standards; employing against their country those very arms, which were put into their hands for its defence. He added, that it was no wonder, if fugitive bankrupts

and perjured soldiers, after being re-admitted into the city, ran every day into new disorders and excesses. That the most sacred laws were infringed, the consular power despised, and the dignity of the senate debased; and that no remedy to these evils could be hoped so long as the tribuneship, the root of all, subsisted.

And he concluded with telling them, that as to the present affair, it was his firm determination for ever to withstand the passing of so iniquitous a law as was then proposed, and of any law whatsoever which had not first passed the examination and approbation of the senate; and that he hoped to make them know during his magistracy, if they were yet ignorant of it, what was the extent of the power of a consul.

Volero, notwithstanding this provocation, still confined his discourse to the matter and merits of the law in question, forbearing all personal attacks. But Lætorius, another of the tribunes, fell³ at once to railing against the Claudian family, which he termed the most haughty and most cruel enemies of the plebeians; and he added, that the patricians had given them, in Appius, not a consul, but an executioner to rend and torture them. Words failing the rough soldier to keep pace with his angry and impetuous thoughts, he

Year of
R O M E
COLXXXII.
Bef. J. C.
Four hundred seventy.
Thirty-ninth
Consulship.

Livy, B. 2.
c. 56.

³ Dionysius represents Lætorius as a long-winded orator who answers what Appius had said against the commons with an ample panegyric upon them, then makes an invective against Appius and his family, and then closes all with swearing, that he will carry his point or die.

Year of
R O M E
CCLXXXII.
Bef. J. C.
Four hun-
dred seven-
ty.

Thirty-
ninth Con-
sulship.

said, “ Romans, I am not so ready at speaking as at doing. Come hither to-morrow. I will get the law passed, or die upon the spot before you.”

The next day the tribunes possessed themselves of the temple, [the capitol, according to Dionysius.] The consuls and patricians repaired to the assembly to hinder the passing of the law. Lætorius bids his viator clear the place of all who have not the right of voting: the young nobles keep their ground: he gives orders to lay hold on some of them: Appius cries out, “ a tribune has no authority but over the plebeians: he is not a magistrate of the people, but of the commons⁴: I myself, though consul, have no power, by the custom of our ancestors, to remove any citizen from a public assembly; the form of dismissing it having always been, ‘ Depart, Romans, if you please.’” Si vobis videtur, discedite Quirites.

The tribune, no match for the consul at points of law, instead of answering, sends a viator to arrest him; Appius sends a lictor to seize the tribune, crying aloud to him, at the same time, that he is but a private man, without any authority or real magistracy. The sacrosanct person of the tribune was just going to be insulted, when the enraged plebeians all united at once against the consul. Appius nevertheless stood the storm; and as fresh crowds of citizens flocked to the Forum from all quarters, the commotion would pro-

⁴ Non POPULI sed PLEBIS eum magistratum esse. Livy, L. 2. c. 56.

bably not have ended without bloodshed, if Quinctius, the other consul, had not exerted all his soothing arts to quiet the tumult. Requesting some consulars to force Appius out of the assembly, (if they could not persuade him to go) he endeavoured by entreaties to assuage the fury of the plebeians, and begged of the tribunes to dismiss the assembly, and allow their own anger some leisure to cool. Time (he said) would not diminish their strength but add wisdom to it, that the senate would certainly yield to the people, and the consul to the senate.

Quinctius found it difficult to appease the multitude; the consulars much more difficult to appease Appius. At length the assembly of the commons was dismissed; and the consuls convened the senate. Anger and fear, for a while, alternately dictated different counsels; but in proportion as those passions subsiding, gave place to reflection and reason, the fathers became more and more averse from all further strife; and Quinctius had the thanks of the house for having quieted the tumultuary contest. They entreated Appius not to insist on retaining to the consular dignity any higher prerogatives than were compatible with concord in the state. He, unconvinced by all their remonstrances, “called gods and men to witness, that the republic was betrayed through cowardice; that a consul was not wanting to the senate, but a senate to the consul: that they were going to submit to laws more destructive than even those enacted on the Mons Sacer.” Overcome, however, by the unanimity

Year of
R. O M E
CCLXXXII.
Bef. J. C.
Four hundred seventy.

Thirty-
ninth Con-
sulship.

Livy, B. 2.
c. 57.

Year of
R O M E
CCLXXXII.
Bef. J. C.
Four hun-
dred seven-
ty.

Thirty-
ninth Con-
sulship.
Livy, B. 2.
c. 58.

of the fathers, he acquiesced. That law was quietly passed. *Lex silentio perfertur*⁵.

And now the tribunes were chosen for the first time in *comitia* by tribes; and according to Piso the historian, (quoted by Livy) the commons, from the same time, began⁶ to have five tribunes, and not before. The names of the five now elected were, C. Sicinius, L. Luminitorius, M. Duilius, Sp. Icilius, and L. Mecilius.

⁵ The Greek historian (B. 9. p. 603, 604, 605.) is somewhat more circumstantial than the Latine with regard to the commotion. He represents it as lasting many days. He says, that after the fray between Appius and Lætorius, in which the latter received a hurt, the tribunes and people possessed themselves of the capitol, and kept guard there night and day to the great terror of the fathers. And he adds, that Quinctius, at length, prevailed with the tribunes to refer the matter in dispute wholly to the judgment of the senate. That there (the tribunes present) Valerius, being called upon the first to declare his opinion, began with advising a mutual forgiveness and oblivion of all injuries done in the late scuffle; and then said, that since the consul Appius would not permit the law in question to be proposed to the people, without a previous decree of the senate, he thought the senate should take it into consideration, and make a decree thereupon. This advice was approved. Quinctius put the question: Appius spoke warmly against the law: the tribunes answered him: the majority of the senate declared for the law; and a decree was made conformable to the sense of the house; which decree the people joyfully received; and by their suffrages the law was enacted. Καὶ ὁ δῆμος ἀλαπητῶς δηξάμενος τὸ συγχώρημα τῆς βελῆς, ἐπεψήφισε τὸν νόμον.

⁶ If Piso's report be true, many particulars related by Dionysius and Livy concerning the tribunes must be fabulous. It may be observed, that Pighius has in no year, preceding this, inserted more than two in his calendars.

CHAP. XIX.

I. *The consuls lead two armies into the field against the Æqui and Volsci. Appius's troops, that he may have no claim to a TRIUMPH, refuse to fight the enemy. He punishes them with the utmost severity, and returns to Rome.*
 II. *The affair of the Agrarian law being revived the next year, he opposes the tribunes with more heat than ever. They cite him before the people as an enemy to the public liberty. He kills himself.* III. *The tribunes resume the affair of the conquered lands, but drop it again till the close of the next consulship, when no plebeian appears in the comitia, where T. Quinctius and Q. Servilius are chosen to that dignity. These consuls, to keep things quiet at home, busy the people in various wars.* IV. *The domestic dissensions begin afresh in the consulship of T. Æmilius and Q. Fabius. Æmilius favours the people in relation to the Agrarian law. Fabius, without promoting that affair, falls upon an expedient to stop their complaints.* V. *He then takes the field, and reduces the Æqui to ask peace. The war is renewed to the advantage of the Romans.* VI. *A most dreadful plague rages in the city. The Æqui and Volsci appear before Rome, but soon retire; and the Romans, the next year, give them an entire overthrow.*

I. THE Æqui and Volsci, during these divisions at Rome, had, according to their old custom, made inroads upon the territories of the republic. The legions raised to take revenge upon those enemies were divided between the two consuls.

Appius marched against the Volsci, and carried with him into the field the same cruel and tyrannical spirit which had actuated him in the city, and to which he now abandoned himself the more absolutely as he had no tribunes to control him. The victory which the

Year of
R O M E
CCLXXXII.
Bef. J. C.
Four hundred
seventy.
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Thirty-  
ninth Con-  
sulship.  
D. Hal. B.  
9. p. 605,  
606.  
Livy, B. 2.  
c. 58.



Year of  
R O M E  
CCLXXXII.  
Bef. J. C.  
Four hun-  
dred seven-  
ty.

Thirty-  
ninth Con-  
sulship.

commons had gained over him, made his hatred to them exceed even that of his father. Though singled out by the patricians, as the only man qualified to withstand the tribunes, yet in his consulship they had passed their law, which his predecessors, with less vigorous efforts than his, had obstructed. Stung with these reflections, anger and indignation incited him to exercise towards the soldiers a rigour that had more the appearance of revenge than of necessary discipline. Yet so obstinate a spirit of opposition to him had they imbibed, that no acts of severity could make them submissive. They did every thing slowly, lazily, negligently, contumaciously. Neither fear nor shame had any power with them. If he bade them march faster, instantly they took care to slacken their pace; if, when they were employed in any work, he urged them to despatch, they presently became languid, though of their own accord they had been active before; their arms grew stiff. Whenever he was near, they kept their eyes on the ground, muttering curses as he passed by; insomuch, that though unconquered by the hatred of the plebeians, it sometimes staggered him. Finding that no examples of punishment had any influence on the soldiers, he forbore speaking to them any more; but charged the centurions with having corrupted his army, and scoffingly called them tribunes of the commons, and sometimes Voleros.

Livy, B. 2.  
c. 59.

The Volsci, having intelligence of all this, pressed the closer upon the Romans in hopes

of their acting the same part towards Appius as formerly towards Cæso Fabius. And in truth they were disposed to act a worse, as they hated Appius much more than they had done the other. They did not only resolve, like Fabius's army, not to conquer, but they resolved to be conquered. The consul had no sooner drawn them up for battle than they turned their backs to the enemy, fled shamefully to their intrenchments, nor made any resistance till they beheld the slaughter of their rear, and the Volsci, approaching to break into their camp. Then exerting their strength courageously they repulsed the victorious Volsci, yet would do no more. They would only save the camp, and show the general that they could have conquered if they had pleased. Some even exulted in the loss and disgrace they had suffered. The haughty and fierce spirit of Appius, not broken by all this, but eagerly bent to punish it with rigour, he gave orders for the soldiers to assemble before his tribunal. His lieutenants and military tribunes, who dreaded the consequence, ran to him, begged of him not to hazard his authority by putting it to such a trial, since its whole force lay in the consent of those who were to obey; they represented to him, that the soldiers in general declared, they would not assemble; that many called out aloud to decamp and quit the territory of the Volsci; and that certain appearances gave great reason to apprehend some dreadful blow from the victo-

Year of  
R O M E  
COLXXXII.  
Bef. J. C.  
Four hun-  
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Thirty-  
ninth Con-  
sulship.

Year of  
R O M E  
CCLXXXII.  
Bef. J. C.  
Four hun-  
dred seven-  
ty.

Thirty-  
ninth Con-  
sulship.

rious enemy, who had already been once at the foot of their rampart. Appius yielding at length to their remonstrances, (though the guilty got nothing by it but a delay of punishment) put off the assembly and issued orders to decamp the next morning. At break of day the signal for marching was given by sound of trumpet. The Volsci, as if roused by the same signal, fell upon the hindmost ranks of the army, as soon as it was in march: the terror and confusion, hereby caused, spread to the foremost; no orders could be heard, no troops formed for fighting; soldiers threw away their arms, ensigns their colours; the only thought of every one was to escape by flight; the Volsci ceased to pursue, before the Romans ceased to run; nor did these rally till they came upon the lands of the republic.

Then Appius, who during the rout had in vain called upon his men to face about, pitching his camp where he could not be molested by the enemy, once more summoned the army to attend him. Seated in his tribunal he upbraided them (and not without reason) with their breach of discipline and shameful behaviour; asked the ensigns who appeared without their colours, what they had done with them? the unarmed soldiers what they had done with their arms? Giving full scope to his natural severity, he caused the guilty centurions, ensigns, and those of the private soldiers who had double allowance of provisions, to be first scourged and then beheaded; and the



rest of the soldiers he decimated, that is, put every tenth man of them to death, lots determining who should be the sufferers.

The time for electing new consuls drawing near, Appius, universally hated by the multitude, and inwardly vexed, because he had acquired no glory, led back the wreck of his army to Rome.

In the other army, commanded by Quinctius, against the Æqui, the scene had been far different; an amiable competition between the general and his soldiers; the strife, which should give the other the greater proofs of good-will and affection; Quinctius, naturally mild and gentle, had yielded to his disposition with the more pleasure, as he observed the bad effects of his colleague's cruel severity. The Æqui, apprized of this concord between the consul and his troops, durst not show themselves. Without opposition they suffered their lands to be plundered and ravaged. A richer booty had never been brought from that country; and Quinctius gave all to his men. To this liberality he added praises, not less pleasing to soldiers than rewards. They returned home in perfect good humour with their general, and, on his account, even softened toward the patricians; the senate (they said) had to them given a father, to the other army a master.

“ Thus, with various fortune in war, and furious discord both at home and abroad, passed this year, chiefly memorable for the *comitia* by tribes. The affair was more considerable

Year of  
R O M E  
CCLXXXII.  
Bef. J. C.  
Four hun-  
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Thirty-  
ninth Con-  
sulship.

Livy, B. 2.  
c. 60.

Year of  
R O M E  
CCCLXXXIII.  
Bef. J. C.  
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Consulship.

on account of the victory itself than any real benefit got by the victory. For neither the plebeians acquired, nor the patricians lost so much strength, as the *comitia* themselves lost dignity, by the exclusion of the patricians from the council.”

II. L. VALERIUS and Tib. Æmilius (chosen to succeed Quinctius and Appius in the consulship) had scarce entered upon their office, when the tribune of the commons revived the affair of the conquered lands. Addressing themselves to both the new magistrates, they conjured them to make good the promises made by the senate in the consulship of Cassius and Virginus; and they succeeded with both. Æmilius favoured them (says Dionysius) from a spirit of revenge against the senate, who had formerly refused a triumph to his father, when he returned victorious from a war with the Æqui. And as for Valerius, he was glad of the present opportunity to soothe the people, who could not easily forgive him the part he had acted, when quæstor, in the

<sup>1</sup> *Varia fortuna belli, atroci discordia domi forisque annum exactum, insignem maxime comitia tributa efficiunt. Res major victoria suscepti certaminis quam usu. Plus enim dignitatis comitiis ipsis detractum est, patribus ex concilio submovendis, quam virium aut plebi additum, aut ademptum patribus.* What is said here of the exclusion of the patricians from the assemblies by tribes, is not to be understood generally of all such assemblies; for the patrician magistrates held assemblies by tribes as well as the plebeian. However, it appears by this passage of Livy, that to the assemblies by tribes, for the election of tribunes, the patricians were not to be admitted. Manutius cites the passage as decisive for this.

destruction of Cassius, the ablest statesman, and greatest captain<sup>2</sup> of his time, and the first author of the Agrarian law.

Secure of the two consuls, the tribunes

<sup>2</sup> Perhaps the reader, when he calls to mind Coriolanus, will wonder why the historian makes Cassius the greatest general of his time; and I cannot resolve the difficulty otherwise than by supposing, that he speaks only of the time when Cassius was killed; that he was then the ablest general in the republic. By the way, it is somewhat surprising, that when the Romans were so grievously distressed by Coriolanus, they made no use of the abilities of Cassius: we hear nothing of him during all that war. Why did not they raise him to the consulship when they most wanted such a general?

And this naturally leads me to mention another difficulty which frequently occurs in the Roman story. The consuls were always chosen in *comitia* by centuries; and the patricians are often represented as having all power there. Thus for instance, Livy, on occasion of the contest about Volero's bill:—*Plebs Vleronem tribunum reficit. Patres ad ultimum dimicationis rati rem venturam, App. Claudium, Appii filium, jam inde à paternis certaminibus invisum infestumque plebi, consulem faciunt.* Liv. L. 2. c. 56.

One would imagine, from these words, that the creation of the consuls was as much in the power of the senate and patricians, as the creation of the tribunes was in the power of the commons. Yet we find, that in the *comitia centuriata*, the plebeians often prevailed to have those candidates promoted, whom they liked best, and who were known to favour the popular cause. May we not resolve this difficulty, by saying, that the commons were always masters in the *comitia centuriata*, when they pleased to exert their strength; but that, generally speaking, they had so much respect for the old patrician families, as to leave to them the nomination of persons to fill those magistracies, to which no plebeian could lawfully be admitted? That nevertheless, when any matter, which

Year of  
R O M E  
CCLXXXIII.  
Bef. J. C.  
Four hundred sixty-nine.

Fortieth  
Consulship.  
D. Hal. B.  
9. p. 607.



Year of  
R. O. M. 681  
CCLXXXIII.  
Bef. J. C.  
Four hundred  
sixty-nine.

Fortieth  
Consulship.

brought the affair before the senate, and in gentle; but pressing terms, urged the conscript fathers to suffer the nomination of decemvirs for regulating the partition of the lands. The greatly concerned the interest of the whole plebeian body, was depending, they then took advantage of their superiority to have one popular patrician; at least, in the consulship. The tribunes, with their insolent veto, and the senate, with their knavish augurs, could throw obstructions in the way of each other's purposes at these elections. And it seems as if they therefore frequently compromised the matter. "Let us have one consul," said the tribune, "such as we like, and you shall name whom you please for the other." Thus, in the instance just mentioned, the colleague given to Appius was T. Quinctius, a popular man; otherwise, it is highly probable, that the plebeians would have opposed and hindered the election of the other, their known and avowed enemy.

Nothing, here said, will account for the neglect shown of the abilities of Cassius when they were most wanted; because he is represented as a man agreeable to both parties, till his proposal of the Agrarian law. But doubtless, with regard to the consuls of the year 263, the case was, that the plebeians departed from their usual complaisance for the senate, as thinking the interest of the plebeian order particularly concerned at that time in the choice of the governing magistrates. (See p. 212.) And the same was doubtless the case, when consuls were chosen for the present year. For I apprehend that both Valerius and Æmilius were known to be favourers of the people before their election to the magistracy; and that the reasons, assigned by Dionysius, why they sided with the tribunes in relation to the Agrarian law, are mere conjectures of his own. To believe, that Valerius took part with the people from the motive mentioned in the text, we must first believe the story of Cassius's being impeached before the people, by Valerius and his brother quæstor, which, I think, has been shown to be a groundless tale. It does not appear that Valerius had any hand in the death of Cassius.

consuls said nothing upon the subject, but asked the opinions of the rest of the senate, beginning with Æmilius's father. This ancient consular declared, he thought nothing could be more unjust, than that a few private men should possess the public estate; that those usurpers ought to be very well content with having held the land several years without molestation. That, not to speak of the natural right which all the citizens of a state have to share in what belongs to the public, the senate was particularly engaged by their own decree, made seventeen years ago, to divide the conquered lands among the people.

Years of  
ROMAN  
CONULSHIP  
Bef. J. C.  
Four hundred  
sixty  
nine.  
Fortieth  
Consulship.

D. Hal. B.  
9. p. 608.

And as to Æmilius's resenting the refusal, his father had received eight years before, (in his second consulship, 275) from the senate, of a triumph, I conceive the refusal itself to be fabulous, as likewise all that Dionysius says of the petitioner's anger, and his immediately revenging himself by declaring for the Agrarian law: I conclude, I say, the whole to be fabulous, not only because Livy says nothing of these things, but because we find Æmilius the father raised a third time to the consulship in 280, and as warm against the pretensions of the people as the senate could wish him. And it seems very probable that both father and son, in imitation of the Fabii, (see p. 250.) now sided with the tribunes, in order to recover to the family the good will of the plebeians, which they must have lost in the former part of the father's third consulship; during which the tribune Genucius was murdered, and the plebeians insulted in the person of Volero. That Æmilius the father presently repented of what he had done in relation to Volero, and made his peace with the tribunes, there seems good ground to believe, since we find that stormy affair hushed at once, each party dropping their complaints.

The year 267, when the decree was made, and the present year 283, inclusive.



Year of  
R O M E  
CCLXXXIII.  
Bef. J. C.  
Four hun-  
dred sixty-  
nine.

Fortieth  
Consulship.

He added, that the poor plebeians dreaded the thoughts of having children, to whom they could leave nothing but their own wretchedness for an inheritance; instead of cultivating each the portion of land that belonged to him, they were obliged to work for subsistence, like slaves on the estates of the patricians: and that this servile way of life was not very proper to form the courage of a Roman. “My opinion therefore is, that our consuls do now execute the senate’s decree, the execution of which has been hitherto delayed on account of the unquietness of the times, and that they name decemvirs, to make the partition of the conquered lands.”

Appius opposed this advice. He said, that the people could lay the blame of their misery upon nothing but their own intemperance and prodigality; that the consuls had frequently divided among them the booty got in the territories of their enemies, and, upon a thorough inquiry, it would appear, that those who had received the greatest share of it were the poorest. That till their manners were mended no largesses could free them from poverty. That it would be very monstrous if the senate should grant rewards to men who had behaved themselves so shamefully in the field, as they had done the last year when under his command. That it never was the intention of the senate to divide the lands among the people; that their sole view in granting the *senatus-consultum*, which Æmilius spoke of, was to put off the affair, in order more easily to quiet the



commotion, raised by the consul Cassius : that his immediate successors in the magistracy, to whom the decree was directed, had taken no notice of it, as thinking the partition in question would be mischievous to the republic. That afterwards, during fifteen<sup>4</sup> years successive, the consuls of none of those years, though in continual danger from the resentment of the people, had thought themselves authorized to name decemvirs in virtue of a decree directed only to the immediate successors of Cassius and Virginius. He added, "Nor have you therefore, Valerius, nor you, Æmilius, any authority to name decemvirs for the partition in question, the senate having given you no commission to do it. As to those who have usurped the public lands, whether by force or fraud, if such men there be, let them be summoned to appear before the consuls, and let their titles be legally tried and determined. There is no want of new laws for this, we have laws already written ; and they are not obsolete ; time has formed no<sup>5</sup> prescription against them."

The majority of the senate came into the

<sup>4</sup> It should be 14 years, the year of Cassius, the year of his immediate successors, and the present year being excluded by the context.

<sup>5</sup> Mr. Vertot, I know not why, always speaks of the resumption of the lands either as a thing impracticable, or as not to be executed without ruining the senate and all the great men ; objections never made by those who opposed the AGRARIAN LAW. Appius Claudius himself, though against the partition, declares for the resumption ; and so did his father in Cassius's time, as likewise Sem-

Year of  
R O M E  
CCLXXXIII.  
Bef. J. C.  
Four hundred sixty-nine.

Fortieth  
Consulship.

Year of  
R O M E  
CCLXXXIII.  
Bel. J. C.  
Four hun-  
dred sixty-  
nine.  
Fourth  
Consulship.

opinion of Appius; so that the request of the tribunes was rejected; who, thereupon, enraged at their disappointment, turned their thoughts wholly to revenge themselves on the author of it; and they agreed to bring him to

pronius, who are the only persons mentioned by Dionysius, as then speaking on the subject in the senate.

Though the younger Appius now declares for the resumption, as Mr. Vertot himself, (following Dionysius) relates, yet Mr. Vertot represents this Appius saying, that the *senatus-consultum* was granted only to give the people time to see the injustice, and even impossibility of what they demanded, “pour donner le tems au peuple de reconnoître l’injustice & meme l’impossibilité de leurs pretensions.” This impossibility can relate only to the resumption; the partition admitted of no difficulty. And what made the resumption so difficult? We have the Abbot’s reasons, where he speaks of this affair in the time of Cassius: “Quelque apparence d’équité qu’eut la proposition de Cassius, on ne pouvoit en faire une loi, sans ruiner tout d’un coup le senat & la principale noblesse, & sans exciter une infinité de procès en garantie parmi toutes les familles de Rome. Why? Les patriciens qui s’en étoient emparez [des terres conquises] les avoient enfermées de murailles; on avoit élevé dessus des batimens: des troupes d’esclaves faits des prisonniers de guerre les cultivoient pour le compte des grands de Rome, & déjà une longue prescription couvroit ces usurpations. Les sénateurs & les patriciens n’avoient gueres d’autres biens que ces terres du public, qui étoient passées successivement en différentes familles par succession, par partage, ou par ventes.” Tom. I. p. 268. 3d Ed.

I cannot find any authority Mr. Vertot has for saying that the senators and patricians had hardly any estates but what they had got by usurping the lands belonging to the public. But when he speaks of their usurpations being covered by long prescription, he seems totally to forget the time of which he is writing, the year 267 of Rome. By his own account (p. 64.) these usurpations did not begin till after the refuge, (in 244 of Rome) 23 years before



trial for his life before the people. They named a day for it, and exhorted all the citizens to be present. The articles of the impeachment, according to Dionysius, were to be, that he had given pernicious advice against

Year of  
R O M E  
CCLXXXIII.  
Bef. J. C.  
Four hundred sixty-nine.

Fortieth  
Consulship.  
D. Hal. R.  
9. p. 610.

Cassius proposed the Agrarian law. And there is no reason to believe that these usurpations began till after the year 257, when Tarquin died; which Livy makes the date whence the aristocratical domination commenced, and which was just ten years before Cassius proposed the Agrarian law. The republic was reduced to a very low condition after the banishment of Tarquin, by the desertion of all her allies; nor till the defeat of the Latines in 257, had she quiet possession of land enough for the patricians to form out of it such considerable estates for themselves, as Mr. Vertot supposes them to have. So that his difficulties arising from sales, and conveyances, and inheritances, and long prescription, are all a dream.

Ἐδοξεν ἂν αὐτοῖς πολλά βουλευσαμένοις, δίκην τὸν Ἀππίον ὑπαγαγεῖν θάνατον ἔχουσαν τὸ τίμημα. Καὶ μετὰ ταῦτα ἐν ἐκκλησίᾳ τὰς ἀνδράς κατηγορήσαντες, παρεκάλειν ἡκεῖν ἅπαντας εἰς τὴν ἀποδείχθεσμένην ἡμέραν, ὡς διοίσοντας ὑπὲρ αὐτῶν ψῆφον. D. H. L. ix. p. 610.

When any magistrate designed to impeach a person of a crime before the whole people, he ascended the rostra, and calling the people together by a crier, signified to them, that upon such a day, he intended to accuse such a person of such a crime: this they termed *reo diem dicere*: the suspected party was obliged immediately to give sureties for his appearance on the day prefixed, and in default of bail, was committed to prison.

On the appointed day, the magistrate again ascended the rostra, and cited the party by the crier; who, unless some other magistrate of equal authority interposed, or a sufficient excuse was offered, was obliged to appear, or might be punished, at the pleasure of the magistrate who accused him. If he appeared, the accuser began his charge, and carried it on every other day, for six days together, at the end of the indictment mentioning the particular punishment specified in the law for such an offence.

This intimation they termed *inquisitio*. The same was



Year of  
R O M E  
CCLXXXIII.  
Bef. J. C.  
Four hun-  
dred sixty-  
nine.

Fortieth  
Consulship.

the people; raised sedition in the state; offered violence to the sacred persons of the tribunes; and, when commander of the army, had suffered an ignominious defeat and a terrible slaughter of his soldiers. Never, says

immediately after expressed in writing, and then took the name of *rogatio*, in respect of the people who were to be asked or consulted about it; and *irrogatio*, in respect of the criminal, as it imported the mulct or punishment assigned him by the accuser. This *rogatio* was publicly exposed three *nundinæ* or market days together, for the information of the people. On the third market day, the accuser again ascended the *rostra*, and the people being called together undertook the fourth turn of his charge, and having concluded, gave the other party leave to enter upon his defence, either in his own person, or by his advocates.

At the same time as the accuser finished his fourth charge, he gave notice what day he would have the *comitia* meet to receive the bill; the *comitia tributa* to consider of mulcts, and the *centuriata* for capital punishments.

But in the meantime, there were several ways, by which the accused party might be relieved; as first, if the tribunes of the commons interposed in his behalf; or if he excused himself by voluntary exile, sickness, or upon account of providing for a funeral; or if he prevailed with the accuser to relinquish his charge, and let the cause fall; or if upon the day appointed for the *comitia* the augurs discovered any ill omens, and so forbad the assembly. Kennet, Part II. B. III. chap. XIX.

Vobismet ipsis, pontifices, et vestris liberis, ceterisque civibus, pro vestra auctoritate, et sapientia consulere debetis. Nam, cum tam moderata judicia populi sint a majoribus constituta: primum ut ne pœna capitis cum pecunia conjungatur: deinde ne, nisi pro dicta die, quis accusetur: ut ter antè magistratus accuset, intermissa die, quàm multam irroget, aut judicet: quarta sit accusatio trinùm nundinùm pro dicta die, qua die judicium sit futurum: tam multa etiam ad placandum, atque ad misericordiam reis concessa sunt; deinde exorabilis populus, facilis suffragatio pro salute: denique etiam, si qua res illum

Livy, was a man, whom the commons so much hated, summoned to appear in judgment before the people; *minquam antè tam invisus plebi reus ad judicium vocatus populi est*; nor did ever the patricians exert themselves so much in behalf of any man as of Appius, the defender of the senate, the asserter of its dignity, its support, its bulwark against all tribunitian and plebeian tumults, and now exposed to the rage of the commons, only for having been too warm in the contention.

Appius himself was, of all the patricians, the only man who despised the tribunes, and the commons, and the impeachment. Neither the menaces of the plebeians, nor the entreaties of the nobles, could move him to depart from his accustomed manner of speaking, and soften the asperity of his style. Once he pleaded his cause, but more like an accuser than a person accused; the same resolute, haughty, disdainful look he was wont to have; the same spirit in his discourse, full of reproaches and invectives: insomuch that many of the plebeians feared him no less now when arraigned at the bar, than they had done when he was consul. His intrepidity and steadiness so astonished and disconcerted the tribunes and the commons, that, of their own motion, they adjourned the cause to another day. Before this came, Appius<sup>7</sup> put an end to *diem aut auspiciis, aut excusatione sustulit: rota causa judiciumque sublatum est. Hæc cum ita sint in re, ubi crimen est? ubi accusator? &c.. Cic. pro Dom. 17.*

Year of  
R O M E  
CCLXXXIII.  
Bef. J. C.  
Four hundred sixty-nine.

Fortieth  
Consulship.

Livy, B. 2.  
c. 61.

<sup>7</sup> Livy reports that he died of some distemper, and Dio-



Year of  
R O M E  
CCLXXXIII.  
Ref. J. C.  
Four hun-  
dred sixty-  
nine.

Fortieth  
Consulship.

Livy, B. 2.  
c. 61.

D. Hal. B.  
9. p. 611.

Ibid.  
Livy, B. 2.  
c. 61.

Year of  
R O M E  
CCLXXXIV.  
Ref. J. C.  
Four hun-  
dred sixty-  
eight.

Forty-first  
Consulship.

Liv. B. 2.  
c. 63.

\* A second-  
time cons.

his own life. When his son, who brought the dead body into the Forum, was beginning to pronounce a funeral oration on the deceased, the tribunes endeavoured to silence him; but the people, more moderate and equitable, interposed, and would not suffer that so great a man should be hindered from receiving that customary honour; and Livy adds, that they heard him praised, when dead, with as willing an ear, as they had heard him accused, when living; and that a numerous crowd of them attended his obsequies.

III. THE Romans, during the remainder of this year, were employed in revenging themselves on the Æqui and Sabines, who, taking advantage of the civil feuds at Rome, had made incursions on the territory of the republic.

In the following consulship of Aulus Virginius and T. Numicius, the business of the Agrarian law was resumed. An alarm from the Volsci suspended their prosecution of it, but in the end of the year, it was again set on foot. And the multitude, who looked upon themselves as oppressed by the great, to show their resentment, absented themselves from the assembly, where T. Quinctius\* and Q. Servilius were chosen consuls for the next year. They were raised to that dignity by the sole voices of the patricians and their clients, who, not-  
nysius says, that it was so given out by his friends, but that in truth he killed himself.

The Greek historian does not admit that Appius ever pleaded his cause before the people.



withstanding all these divisions, constantly adhered to the party of their patrons. To prevent the breach from growing wider, the new consuls, during all their year, busied the people in various wars. Servilius had great success against the Sabines; yet his glory was not equal to what Quinctius gained by his victories over the united forces of the Æqui and Volsci. In the heat of a battle, and when he was like to be worsted through the enemies' superiority in numbers, to encourage his left wing to exert themselves, he told them that his right wing was victorious, and by that means he made his left really so. He then hastened to the right wing, and informed them of the advantages which his left had gained, and, by this artful conduct, he put the enemy entirely to the rout. He defeated them a second time, and then took from the Volsci the city of Antium, with its whole territory.

IV. THE complaints of the commons and the dissensions at Rome began afresh in the consulship of Tib. Æmilius\* and Q. Fabius. (The latter was son of one of those three famous brothers who had commanded in the fort upon the Cremera.) We have already seen that Æmilius in his first consulship had declared for the partition of the lands; the affair was now again debated in the senate: Æmilius persisted in his former opinion. But the majority of the senators, and especially those who were in possession of the public lands, complained much of the liberality of Æmilius, whom they reproached with making his court

Year of  
R. O. M. E.  
CCLXXXV.  
Bef. J. C.  
Four hundred  
sixty-seven.

Forty-second  
Consulship.

Livy, B. 2.  
c. 64.  
D. Hal. B.  
9. p. 613,  
614.

Year of  
R. O. M. E.  
CCLXXXVI.  
Bef. J. C.  
Four hundred  
sixty-six.

Forty-third  
Consulship.

\* A second  
time cons.

Livy, B. 3.  
c. 1.  
D. Hal. B.  
9. p. 615,  
616.

Year of  
R O M E  
CCLXXXVI.  
Bef. J. C.  
Four hun-  
dred sixty-  
six.

Forty-third  
Consulship.  
Livy, B. 3.  
c. 4.  
D. Hal. B.  
9. p. 616.

to the people at the expense of others. His colleague Fabius, to quiet the dispute, proposed an expedient which at first displeased neither party. It was to send a considerable number of the poorest plebeians, to people the city of Antium, which had been almost depopulated by the last war; and to divide among them some adjacent lands, taken from the Volsci. This advice being received with applause, T. Quinctius, A. Virginius, and P. Furius, were without delay commissioned to settle the new colony. But when the poor citizens were to give in their names to those triumvirs to be enrolled, few of them appeared. To send them to such distant habitations (they said) was banishing them from their country. And they chose rather to live at Rome in indigence, with the hopes of one day getting a share of the public lands, than to be actually in possession of land elsewhere; so that the triumvirs, to make up the number appointed for the colony, were forced to receive a mixed crowd of Latines, Hernici, and Volsci.

V. AND now Fabius marched an army against the Æqui, and Æmilius another against the Sabines. The expedition of the latter had nothing remarkable in it; but the Æqui submitted to Fabius, first bought a truce very dear, and then obtained a peace, on the condition of being subject to the republic.

Nevertheless the next year, in the consulship of Sp. Posthumius and Q. Servilius, some of the Æqui joined the old inhabitants of Antium (who being deprived of their lands had

\* A second time cons.



taken refuge among them) and ravaged the territory of the Latines. These faithful allies of Rome were not allowed to arm in their own defence, nor would the Romans send their troops to defend them. The senate chose rather to appoint a deputation to the council of the Æqui; and Fabius, who had made the peace with them, was at the head of the embassy. He perceived by the indirect answers they made to his demands, that they had no intention to give the republic satisfaction, but only to amuse him. Under pretence therefore of visiting their temples and public buildings, he examined their magazines of arms and provisions, some of which he found full, and others filling. The report he made at his return of the preparations for war, which the Æqui in conjunction with the fugitive Antiates were carrying on, induced the republic to choose two consuls for the next year, whose names were formidable to those two nations, T. Quinctius \*, who had conquered Antium in his second consulate, and Q. Fabius, who had forced the Æqui to sue for peace in his first. Fabius, who was ordered to march against the Æqui, tried first in vain to reduce them by negotiation. The two consuls then joined their forces, and came to a bloody battle with the enemy, near Algidum, fifteen miles from Rome, but with little advantage to either side. In the following consulship of A. Posthumius and Sp. Furius, men little skilled in the business of war, the latter commanded the army against the Æqui, while the former stayed be-

Year of  
R O M E  
CCCLXXXVII.  
Bef. J. C.  
Four hundred sixty-five.

Forty-fourth Consulship.

D. Hal. B.  
9. p. 617.

Year of  
R O M E  
CCCLXXXVIII.  
Bef. J. C.  
Four hundred sixty-four.

Forty-fifth Consulship.

\* A third time cons.  
D. Hal. B.  
9. p. 618.  
Livy, B. 3. c. 2.



Year of  
R O M E  
CCLXXXIX.  
Bef. J. C.  
Four hun-  
dred sixty-  
three.

Forty-sixth  
Consulship.

D. Hak. B.  
9. p. 619. A  
& seq.  
Livy, B. 3.  
c. 4.

hind to cover the country. Furius encamped imprudently, engaged rashly with the enemy, and was defeated; after which he was so closely besieged by them in his camp, that not a man could go out to give notice at Rome of his danger. However, the senate had advice of it, and, in so great a distress, resolved upon an expedient, never used but in cases of extreme peril. They gave up the Roman government absolutely into the other consul's hands, by these words: "Let the consul take care that the republic suffer no detriment." *Videret consul nequid respublica detrimenti caperet.* Posthumius, who received this commission, made all take arms who were able, and gave T. Quinctius the command of the army, with the title of proconsul. As soon as Quinctius came within sight of the invested camp, the Æqui left the attack, and retired in haste; but Furius had before made a sally, in which his brother L. Furius and two cohorts, consisting of a thousand men, had been surrounded by the enemy, and all slain, having chosen rather to die fighting, than surrender their arms. The consul being now equal in numbers to the enemy, acted upon the offensive, and obliged them to retire into their own country. Posthumius likewise attacked a considerable body of their pillagers loaded with spoil, and made a great slaughter of them: and by these successes Rome was again in tranquillity.

VI. BUT the next year, when P. Servilius

\* It is not absolutely certain in what month of the year the consuls entered upon their office, from Brutus to this

Priscus and L. Æbutius Elva held the consulship, a dreadful plague swept away a multitude of the Roman citizens of both orders. The dead were so numerous, that the living threw them into the Tiber, without burial. Upon the news of this mortality, the Æqui and Volsci entered into a league against Rome, which they proposed to besiege. They began the war with committing hostilities in the territories of the Latines and Hernici. These allies applied to the Roman senate for succour; but their deputies found Æbutius breathing his last, and Servilius not far from death. However the latter made himself be carried to the senate-house, whither some of the senators likewise, half dead, were carried in litters; but all they could do was to give leave to the allies to arm and defend themselves, and to promise them assistance in better times. The Latines and Hernici, not in a condition to take the field, shut themselves up in their towns, and left their country open to the ravages of the enemy, who at length appeared before Rome. Both the consuls were now dead, and the greater part of the tribunes; the plague had carried off one fourth part of the senators, and the rest with the other nobles were most

time. Livy tells us that Servilius and Æbutius entered upon the consulship the first of August. It will appear in the sequel of this history, that down to the 600th year of Rome, the consular years began in different months, sometimes in July, sometimes in December, and sometimes in March. Afterwards they began the first of January, and continued so to do as long as the republic lasted.

*Retelle.* The consuls entered upon their office from Brutus

Year of  
R O M E  
CCXC.  
Bef. J. C.  
Four hundred sixty two.  
Forty-seventh Consulship.  
D. Hal. B.  
9. p. 623.  
Livy, B. 3. c. 6.



Year of  
R O M E  
CCXC.  
Bef. J. C.  
Four hun-  
dred sixty-  
two.

Forty-se-  
venth Con-  
sulship.

D. Hal. B.  
9. p. 624.

of them sick. The care of the republic had devolved upon the ædiles.

Notwithstanding so many calamities, the Romans seemed to have lost nothing of their wonted steadiness. They crept to the ramparts, and put a good face upon their affairs. Those of the senators who were able, mounted the guard and stood centinels; and the city was strong on every side. The Æqui and Volsci at length abandoned their project of a siege, and marched their forces towards Tusculum.

Livy, B. 3.  
c. 7.

In the meantime, the plague still raging, the people turned their thoughts to divine assistance; all made their vows upon the altars; the women swept the temples with their hair, and continued prostrate in the presence of the gods. From this time (says Livy) the pestilence gradually abated; and the citizens, recovering health and strength, began to apply themselves to affairs. Several inter-kings were successively appointed to govern the state. Valerius, the third day of his administration as inter-rex, named Lucretius Tricipitinus and T. Veturius Geminus consuls. They entered on their magistracy before the middle of August.

Year of  
R O M E  
CCXCI.  
Bef. J. C.  
Four hun-  
dred sixty-  
one.

Forty-  
eighth Con-  
sulship.

Livy, B. 3.  
c. 8.

D. Hal. B.  
9. p. 625.

Dionysius reports, that one of the tribunes would have immediately revived the affair of the conquered lands; but that the people chose to defer it to a more convenient season, being

<sup>9</sup> Livy represents the enemy as quitting the enterprise through fear of the infection; D. Hal. as repulsed by the Romans.



now entirely bent to revenge the insults they had suffered from the Æqui and Volsci the last year. Even those citizens, whom the laws exempted from going to war, neglected their privileges, and voluntarily inlisted themselves for the service; so that the consular armies were presently formed. It was Lucretius's fortune to engage with the confederates, and he gave them a dreadful overthrow; they lost thirteen thousand four hundred and sixty men in the battle and in their flight after it; and they were soon after defeated again by the forces of the two consuls united. And thus the republic was restored to her former flourishing condition.

Year of  
R O M E  
CCXCI.

Bef. J. C.  
Four hun-  
dred sixty-  
one.

Forty-  
eighth Con-  
sulship.

## CHAP. XX.

- I. During the absence of the consuls from Rome, Terentius Arsa, one of the tribunes, proposes to the people, that there should be an establishment of FIXED LAWS, to be the RULE to the magistrates in deciding causes between man and man. II. Q. Fabius, governor of the city, warmly opposed it. Terentius suspends the pursuit of his design, and, after the arrival of the consuls at Rome, drops it entirely. III. But the affair is revived in the succeeding consulate of P. Volturnius and S. Sulpitius. Great contests about it. A stop, put to the dispute by prodigies and ill omens. IV. The law is again proposed. The contending parties come to blows. Quinctius Cæso, the son of Quinctius Cincinnatus, is cited before the commons for the violent part he had acted in those scuffles. V. His uncle T. Quinctius, and his father L. Quinctius, plead for him. He is falsely accused of murder. The decision of the cause is deferred to another day; before the coming of which, Cæso banishes himself.

Year of  
R O M E  
CCXCI.  
Bef. J. C.  
Four hun-  
dred sixty-  
one.

Forty-  
eighth Con-  
sulship.

I. WHILE Veturius and Lucretius were in the field pursuing the advantages they had gained over the Æqui and Volsci, a certain tribune of the commons, named C. Terentius<sup>1</sup> Arsa took the favourable opportunity of the absence of those magistrates to propose a new law of great importance to the people, and tending much to diminish the power of the nobles.

D. Hal. B.  
10. p. 627.

During the regal state of Rome, the sole will of the king had been instead of law in all private causes. As the consuls succeeded to the regal power, they likewise succeeded to the prerogative of distributing justice, by themselves or their patrician substitutes. A few, and but few, rules of law were written, and these were in the sacred books, to which patricians only had access. The people in general, wholly occupied in cultivating the lands, and rarely coming to town but on market-days about their domestic concerns, or to be present at the *comitia* and other public assemblies holden only on those days, were entirely ignorant of the science of law.

Livy, B. 3.  
c. 9.

Terentius, in his harangue to the people, urged with great vehemence that the consular authority was excessive, and insupportable in a free city. That the consuls, independent and uncontrolled themselves, turned all the terror and penalties of the laws against the plebeians. That the state, by the erection of the consular magistracy in the place of the

<sup>1</sup> Livy calls him Terentillus.

regal, had only got two kings instead of one. "But (he added) to put an end to this despotic sway of the consuls, he would prefer a bill for impowering five of the best men in the republic to form a body of laws, whereby those magistrates should themselves be governed, so that for the future they should not give their will for law, nor exercise any authority over their fellow-citizens, but what those very citizens should entrust them with."

II. THE nobles (says Dionysius) were terribly alarmed with the danger of being constrained to have regard to laws in their administration of the public affairs. Q. Fabius<sup>2</sup>, who had been twice consul, was at this time governor of the city. He convened the senate, and inveighed in such terms against both the bill and its author, that the consuls themselves, had they been present, could not have fallen upon the tribune with greater fury, or employed more dreadful menaces. He charged Terentius with taking advantage of the absence of the consuls, to strike at the very being of the republic; adding, "that if, the year before, while the plague made such havoc in the city, and foreign enemies laid waste the territory of Rome, the gods in their wrath had permitted a man like him to be in the tribuneship, the commonwealth must have sunk under her heavy calamities: that doubtless after the

Mr. Vertot calls this Fabius, a man inviolably attached to the laws and constitution of the republic. We shall find him, by and by, one of the decemvirs who attempt to establish themselves in a perpetual tyranny.

Year of  
R O M E  
CCXCI  
Bef. J. C.  
Four hundred sixty-one.  
Forty-eighth Consulship.

D. Hal. B.  
10. p. 628.  
Livy, B. 3.  
c. 9.



Year of  
R O M E  
CCXCI.  
Bef. J. C.  
Four hun-  
dred sixty-  
one.

Forty-  
eighth Con-  
sulship.

death of the consuls he would have preferred bills for abolishing the consular government, and in case of failure in that enterprise, have come at the head of the Æqui and Volsci to besiege and assault the city."—Then, addressing himself to the other tribunes, and softening his style, he earnestly entreated them to engage their colleague to suspend the prosecution of his design, till the arrival of the consuls. The tribunes complied, and even did more than was asked; for they prevailed with Terentius (as we shall presently see) to drop the business in reality, though in appearance it was only deferred. The consuls were sent for home.

Livy, B. 2.  
c. 10.

Lucretius brought with him to Rome a prodigious booty; and the whole was exposed during three days in the Campus Martius, that every man who had been plundered by the enemy might take back his own. This procedure gained the consul much good-will, and all agreed that he deserved a triumph for his successful campaign. The triumph was however postponed, he himself judging the affair of Terentius's bill (then depending) to be of more importance. Several days was this debated in the senate and before the people. At length (says Livy) the tribune yielded to the majesty of the consul, and desisted; and then Lucretius and his army received their due honours. (Veturius had only an ovation.)

III. TRANQUILLITY continued not long. For no sooner were the consuls elect, P. Volumnius and S. Sulpicius, entered upon their office,

than all the five new tribunes (of whom Virginius was the warmest) exerted their utmost efforts to get Terentius's<sup>3</sup> bill passed. Superstition put some stop to the progress of this important affair. Earthquakes gave the alarm; and then fiery meteors, and other phænomena, purely natural, the vulgar considered as fore-runners of greater calamities. And when fear had once taken possession of their minds, spectres were seen by some, supernatural voices heard by others. That a cow had spoke, was a tale which had found no credit the last year, but now it was believed; and the more easily on account of a new prodigy, (which nobody questioned, and which had no example on record) a shower of raw flesh, of which, as it fell, some greedy flocks of birds caught a part, and the rest lay long on the ground without corrupting, or having any ill smell.

Recourse was presently had to the Sybilline books; and the duumvirs (two patricians) who had the care of them, and perfectly understood them, discovered there, that Rome was by these prodigies threatened with an invasion from strangers, and that the Romans would

<sup>3</sup> Mr. Vertot understands Terentius's bill to have consisted of two distinct articles, the first for a limitation of the consular authority, which article he supposes to have been dropped entirely; the second, for introducing and establishing a body of written laws. I cannot perceive that any other limitation of the consular prerogatives was intended by Terentius, than what that body of fixed laws, proposed by him, would necessarily put to it, and what the decemviral laws of the Twelve Tables did actually put to it a few years after.

Year of  
R O M E  
CCXCII.  
Bef. J. C.  
Four hundred  
dred sixty.  
Forty-ninth  
Consulship.  
D. Hal. B.  
10. p. 628.  
Livy, B. 3.  
c. 10.

Year of  
R O M E  
CCXCII.  
Bef. J. C.  
Four hun-  
dred sixty.

Forty-ninth  
Consulship.

do well to avoid civil discord. To support the prediction, hasty tidings came from the Hernici, that the Æqui and Volsci, in concert with the new colony of Antium, were preparing to attack the republic. The tribunes laughed both at the prediction, and at the important news; and accused the senators (not without reason) of inventing both, to stave off the affair of Terentius's bill. And when the senate had ordered<sup>4</sup> levies to be made for the

<sup>4</sup> Dionysius says nothing of the intelligence from the Hernici, or the consequent order for levies of soldiers. He represents (B. 10. p. 629.) the senate and tribunes as gravely conferring about the measures proper to be taken for guarding the state against the unknown dangers threatened by the bad omens. He adds, that the assembly agreed upon the expediency of concord in the administration of the public affairs; but could not agree upon the means to effect that concord. Must the nobles yield to the tribunes, or the tribunes to the nobles? The consuls and the chief senators alleged that the tribunes, by attempting innovations in the government, ought to be deemed the authors of all the civil feuds. On the other hand, the tribunes charged the consuls and the patricians with being the sole causes of the disturbances, by their unreasonable opposition to a wholesome bill, which tended only to establish a just equality among the citizens. Finding their remonstrances ineffectual, they had recourse to the people.

The same historian reports, that in the assembly to which the tribunes proposed the law, there were many of the elder senators as well as of the younger, who delivered studied speeches against it, and that the debate lasted several days; till the tribunes, vexed at the loss of so much time, refused to hear any more remonstrances, and appointed a day for coming to a final determination upon the question; and when they had exhorted all the plebeians to be then present, in order to give their suffrages by TRIBES, they dismissed the assembly. That, after



war, and the consuls, erecting their tribunal in the Forum, would have performed their commission, the tribunes interposed. If the lictor laid hold of any citizen, who refused to give his name, the tribunes, aided by the multitude, set him free.

IV. Nor did these plebeian magistrates use more violence to hinder the levies, than the nobles did to hinder the passing of the law; which was constantly proposed every comitial day, and was now couched in words to this effect: "that the people, in lawful *comitia*, should depute ten persons, venerable for their age and prudence, and whose sole ambition was true glory, to form a body of laws for regulating both public and private affairs; that

Year of  
R O M E  
CCXCII.  
Bef. J. C.  
Four hundred sixty.

Forty-ninth  
Consulship.

D. Hal. B.  
10. p. 629.

this, the consuls and most considerable men of the patri-  
cians inveighed in very sharp terms against the tribunes,  
and protested that they would never suffer the introduc-  
tion of new laws, which had not first passed the appro-  
bation of the senate. They said, (p. 630.) "that laws  
were a sort of compact between all the members of a  
state, and not rules dictated by one part of it only. That  
when a part, the ignoble and worse part, took upon them  
to prescribe laws to the noble and better, destruction  
must inevitably be the consequence. What right (said  
they) have you tribunes, to enact laws or to abrogate  
laws; your authority is but an emanation from that of the  
senate? The purpose of your institution was only to suc-  
cour the poor citizens when oppressed; and this privilege  
was granted conditionally that you should attempt nothing  
further, and you have forfeited this privilege by the  
changes you have made with regard to the *comitia* held  
for your elections," &c. Vid. supr. p. 196. The histo-  
rian adds, that after these expostulations they had re-  
course to violence, and that Cæso was their chief instru-  
ment, &c.

Year of  
R O M E  
CCXCII.  
Bef. J. C.  
Four hun-  
dred sixty.

Forty-ninth  
Consulship.  
Livy, B. 3.  
c. 11.

these laws, when compiled, should be proposed to an assembly of the people; and, when approved and enacted by the people, should be fixed up in the Forum, to the end that every man might know what were his own rights and what the rights of the annual magistrates."

As, in these assemblies, headstrong temerity and violence prevailed, and there was no room for sober and deliberate counsel, the elder senators seldom appeared there; and the consuls for the most part kept away for fear of exposing the dignity of their office to affronts. The conduct of the opposition to the tribunes they generally left to the young, rash, audacious nobles. Conspicuous among these was Quinctius Cæso, a person of high birth, (being the son of Quinctius Cincinnatus) approved courage in war, and of an extraordinary size and strength of body. With these advantages he had the talent of oratory. The republic could not boast of a braver soldier, or a readier speaker. This youth, when encircled with his band of nobles, as if his strength and eloquence had invested him with all consular and even dictatorial power, stood forth the bulwark of the senate; and not only sustained the most stormy efforts of the tribunes, but frequently drove them and all their plebeians out of the Forum. Whoever offered to resist did not fail to be severely treated, stripped of his clothes, and sent away naked: so that the tribunes plainly saw their bill was lost if Cæso were suffered to go on at this rate.

Ibid.

D. Hal. B.  
10. p. 630.

Four of them he had quite disheartened by his overbearing violences : but Virginius, who had a spirit not easy to be daunted, cited him to trial before the people; on a capital accusation.

Cæso, rather enraged than terrified by this affront, became more insolent and audacious than ever in the war he made upon the plebeians and their tribunes. His accuser, during the interval between the summons and the day for trial, gave him free scope to hurt himself, and frequently proposed the bill, not in hopes of passing it, but to provoke the young man to furnish, by new misdemeanors, more matter for his impeachment, which he failed not to do; and every odious thing done or said by any of the other young patricians, was imputed to Cæso; who, nevertheless, continued forcibly to hinder the passing of the bill into a law. At length Virginius, addressing himself to the plebeians assembled, “ You see, Romans, that it is impossible for you to obtain that law you so much desire, while Cæso continues a citizen of Rome. But why do I speak of that law? He stands in the way of your liberty; and, in pride, surpasses all the Tarquins that ever lived. This youth, so audacious and violent while only a private citizen, must doubtless make an excellent magistrate. What think you? Shall we patiently wait till we see him consul or dictator?”

At these words many from among the multitude, and especially those who had been roughly treated by Cæso, vehemently called out to the tribune to persist in the prosecu-

Year of  
R. O. M. E.  
CCXCIII  
Bef. J. C.  
Four hun-  
dred sixty.

Forty-ninth  
Consulship.



Year of  
R O M E  
CCXCH.

Bef. J. C.  
Four hun-  
dred sixty.

Forty-ninth  
Consulship.  
Livy, B. 3.  
c. 12.

tion of the delinquent, and to do his utmost to bring him to condign punishment.

V. THE day for the trial came; and the plebeians in general, by their warmth and earnestness, seemed to think that their liberty depended on the condemnation of Cæso. Urged therefore by necessity, he, with much inward indignation, went about<sup>5</sup> soliciting the favour even of the meanest among them. His relations and friends made themselves his advocates to the assembly; yet they did not attempt to clear him of the violences laid to his charge, but answered the invectives of the tribunes against him by expatiating on his real merit. His uncle, T. Quinctius, after recounting the honours which he himself and others of the Quinctian name had acquired by their exploits, affirmed that neither his family nor even the Roman state had ever produced a finer genius, or a warrior of more consummate bravery than Cæso; whom, when he served under him, he had often seen behave himself so gallantly in fight that he had marked him for the prime soldier in the army. Sp. Furius (who had been consul in 289) bore testimony to the success-

<sup>5</sup> This is Livy's account.

Dionysius, p. 631, says nothing of the timorous and submissive behaviour of Cæso; but, on the contrary, that when he was called upon to plead, he refused to own the jurisdiction of the assembly, offering at the same time to submit himself to the judgment of the consuls, whom he regarded as his only lawful judges.

And this historian introduces no other advocate pleading for Cæso, but his own father, L. Quinctius Cincinnatus, into whose mouth he puts the substance of all that Livy imputes to other speakers.

ful valour which Cæso had exerted, when sent by his uncle Titus to rescue him and his army out of imminent danger. Lucretius, one of the last year's consuls, covered with fresh laurels, shared his glory with Cæso, enumerating his many valiant deeds both in expeditions and in pitched battles; and he admonished the assembly to make it their choice, that a young man of so excellent natural endowments, and who could not but be a valuable possession to any state to which he should belong, might rather be a citizen of Rome than of any other city. He added, that increase of years would gradually diminish in him that indiscreet ardour and too forward boldness which gave offence, and that experience would teach him the only thing he wanted, prudence. And he pressed them therefore that they would suffer to grow old among them so great a genius, whose faults were decaying and virtues ripening.

II. L. Quinctius Cincinnatus pleaded likewise for his son, not by extolling his merit (for he feared lest that would serve only to exasperate his enemies) but by humbly entreating the assembly to impute his errors to his youth, and to forgive them for the sake of his father, whom no man could accuse of having injured them in any instance by word or deed.

Virginius, perceiving that the multitude were softened towards the accused by these intercessions, and the merit of the intercessors, and fearing that if Cæso escaped with impunity, the young nobles would become more in-

Year of  
R O M E  
CCXCII.  
Bef. J. C.  
Four hundred sixty.

Forty-ninth  
Consulship.

D. Hal. B.  
10. p. 631.

Year of  
R O M E  
CCXCII.  
Bef. J. C.  
Four hun-  
dred sixty.

Forty-ninth  
Consulship.

solent than ever, answered Cincinnatus, "That his son was the more inexcusable, for his having had the example of so good a father, whereby to regulate his conduct, and having totally neglected to follow it." He added, "You, Lucius Quinctius, are doubtless in a great measure ignorant of the crimes and misdemeanors of this unworthy son, who is no less a reproach to you, than a plague to his country: but, that you may be better acquainted with his character, please to hear a relation of one of his noble deeds, and compare it with those his exploits in war that have gained him so much glory; and let the assembly judge whether it be advisable to show indulgence to such a citizen."

D. Hal. B.  
10. p. 652.  
Livy, B. 3.  
c. 13.

Then calling upon one Volscius, (who stood prepared to act a part which had been concerted between them) he bid him recount what he knew of Cæso's behaviour. Volscius<sup>6</sup>, directing his speech to the people, said, "I could have wished it had been in my power sooner to bring my complaint for the death of a most dear brother whom Cæso murdered. It was in the consulship of L. Æbutius and P. Servilius, when Rome was afflicted with the plague. Returning home one evening, my brother and I, from a friend's house where we had supped, we met Cæso with some of his libertine com-

<sup>6</sup> Dionysius makes this Volscius to be one of the present tribunes. Livy says he had some years before been tribune. According to Pighius there was a Volscius among the tribunes in the consulship of Æbutius and Servilius, when the pretended quarrel is said to have happened.



panions, who together had been making a debauch. They at first attacked us with abusive language, such as young men full of wine are wont to employ when they would insult poor citizens whom they despise. My brother answering one of them as a man of spirit would do, Cæso instantly knocked him down, and with his fists and his feet so bruised him, that he (not perfectly recovered of the epidemic sickness with which he had been seized) remained half dead upon the ground. I had him conveyed home in men's arms, he died presently after, and it was judged that he died of the blows he had received. I could not carry my complaints to the consuls, they dying the same year of the plague. Their successors, L. Lucretius and T. Veturius, were a long time in the field. At their return I cited Cæso several times to appear before them: but instead of justice I got nothing from him but blows."

The story blew the people up to such a rage, that some of them seemed disposed, without examining into the truth of the fact, to kill Cæso upon the spot. The consuls, and even the tribunes themselves, gave a check to this extravagance. But Virginus commanded to lay hold on Cæso and carry him to prison, there to be detained, till he should be brought to trial for his life on Volscius's accusation. The patricians forcibly opposed the execution of this order, and Tit. Quinctius remonstrated to the assembly, that it was utterly illegal to do violence to the person of any citizen un-

Year of  
R O M E  
CCXCII.  
Bef. J. C.  
Four hundred  
dred sixty.

Forty-ninth  
Consulship.

D. Hal. B.  
10. p. 633.

Livy, B. 3.  
c. 13.

Year of  
R O M E  
CCXCII.  
Bef. J. C.  
Four hun-  
dred sixty.

Forty-ninth  
Consulship.

heard and uncondemned, though he were accused of a capital crime. Virginius answered that he had no intention to punish Cæso before condemnation, but that his person ought to be secured in prison to the day of trial, that the Roman people might have it in their power to inflict due punishment on a murderer. The other tribunes, being appealed to, took a middle way; they agreed that Cæso should not be imprisoned, he should give security to appear in judgment on the day appointed. It was referred to the senate, to name the sum in which each surety should be bound; and Cæso was held in arrest in the Forum, during the deliberation of the fathers on this matter; they fixed the sum at three thousand asses<sup>7</sup>. It being left to the tribunes to determine the number of the sureties, they demanded ten; and accordingly ten were bound for Cæso's appearance, and he released. This was the first instance of security given to the public for appearance. Cæso, that very night, left Rome, and retired into Hetruria.

When the day fixed for the trial came, it was urged, that, Cæso having banished himself, all proceedings ought to be stopped; Virginius nevertheless held the *comitia*; but the other tribunes being appealed to, dismissed the assembly. The surety money was however rigorously exacted.

Quinctius Cincinnatus would not permit the other sureties to be sufferers; and, to

D. Hal. B.  
10. p. 633.  
Livy, B. 3.  
c. 13.

<sup>7</sup> About 9l. 13s. 9d. Arbuthnot.

satisfy the whole demand, sold the better part of his estate, retiring to a poor cottage on the further side of the Tiber, where with his own hands he cultivated a few acres of land, which, from his name, were afterwards called the Quinctian Meadows.

Year of  
R O M E  
CCXCH.  
Bef. J. C. 48  
Four hun-  
dred sixty.

Forty-ninth  
Consulship.

## CHAP. XXI.

*I. The patricians continue steady in their opposition to the bill, and conduct themselves in that opposition with more art than they had hitherto done. The tribunes, not able to carry their point, spread false reports injurious to the senate and the whole body of the nobles.*

I. THE tribunes, elated by their new victory, believed themselves now secure of getting Terentius's bill passed. They imagined, that the patricians, intimidated by the banishment of Cæso, would infallibly stoop to them; and they flattered themselves the more readily with this hope, because the elder senators (who kept pretty much out of sight) seemed to yield to them the possession of the government. Vain was their hope; they were totally disappointed. For the younger nobles, and especially the late companions of Cæso, had lost nothing of their boldness; their anger against the commons was augmented, and they had learnt to guide its fury more artfully than before. Whenever the law was proposed, and the tribunes, by attempting to remove them from the assembly, had furnished them with a

D. Hal. B.  
10. p. 634.  
Livy, B. 3.  
c. 14.

4. 16th J  
228. 17. 10  
2. 17. 17. 10  
5.



Year of  
R O M E  
CCXCII.  
Bef. J. C.  
Four hun-  
dred sixty

Forty-ninth  
Consulship.

pretext for violence, they attacked those plebeian magistrates in such a manner, that no one of the assailants could be singled out, as more guilty than any other. The people complained, that, instead of one Cæso, they had now to do with a thousand. In the intermediate days, when the law was not in question, no men more peaceable and gracious than these young nobles; they courteously saluted the plebeians, accosted them familiarly, invited them to their houses, frequented the Forum to assist them in their causes, and even permitted the tribunes, unmolested, to hold councils of the commons, and do any business they pleased, that of the law only excepted: nay, without so much as throwing out a word of contradiction, they suffered those plebeian magistrates to be rechosen, for the coming year, to the same office; condescensions and compliances by which they gradually softened the multitude, and blunted the edge of their zeal for the law: and by this various management, they effectually defeated every attempt to get it passed, throughout the whole year of Voluminius and Sulpicius.

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
nine.

Fiftieth  
Consulship.

These consuls gave place to P. Valerius and C. Claudius (brother of Appius who killed himself), but the bill continued to be the sole object of the public attention. The more the young nobles insinuated themselves into the affections of the plebeians, the more did the tribunes endeavour to instil into the minds of the same plebeians suspicions of those nobles, by loading them with calumnies. They gave

out, "That there was a conspiracy on foot; that Cæso Quinctius was actually in Rome; that measures were concerted to murder the tribunes and massacre the commons. That the elder nobles had commissioned the younger to suppress the tribunitian power, that so the republic might be restored to the same form of government in which it was before the secession."

Year of  
R O M E  
CCXCH.  
Bef. J. C.  
Four hun-  
dred fifty-  
nine.

Fiftieth  
Consulship.

This is Livy's account (and it is all that he says) of the management of the tribunes to render ineffectual the artifices of the young patricians with regard to the plebeians; and there is nothing incredible or extraordinary in this account. When discord prevails, and faction runs high, in a city or a state, such slanderous reports, lies of a day, are common<sup>1</sup>. But Dionysius (incited perhaps by his passion for speech-making, or a desire to please the Claudian family) has expatiated on this matter, and given us a long tale, the most material circumstance of which seems equally incredible and ridiculous; and the introduction to his tale is very well suited to it. Rome, says he, was threatened with a more terrible war from the neighbouring powers than it had ever yet sustained. And this danger it was brought

Livy, B. 3.  
c. 15.

B. 10.  
p. 634.

<sup>1</sup> Mr. Rollin thinks it not improbable that the tribunes had received some imperfect information of the conspiracy which presently after broke out; and of which Herdonius the Sabine was the conductor; and that, by their hatred to the patricians, they were carried to suspect these, their domestic adversaries, of the mischievous designs formed by a foreign enemy.

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
nine.



Fiftieth  
Consulship.

into, by its intestine divisions, conformably to the prediction of the sybilline oracles, and the forewarnings of heaven by the last year's prodigies, the spectres, miraculous voices, shower of raw flesh, &c. [What the cow said, was spoken the year before.]

The tribunes, perceiving that the consul Claudius had inherited that implacable hatred of his family to the commons, and was prepared to oppose their demands with all his power; and finding the faction of the young nobles too strong to be quelled by force, especially since these, by their caresses and soothing arts, had conciliated to them many of the plebeians, and cooled their ardour for passing the law; they, in order to strike a terror into the plebeians, [so gained] and to get the better of Claudius, impudently contrived the following stratagem. Having first alarmed the multitude, by spreading abroad various rumours, all importing mischief that hung over the state, the five tribunes sitting in the Forum from morning to night, and seeming full of anxious care, held consultations, to which they admitted no other person. This part acted for some days, they forged a letter, and caused it to be delivered to them in the sight of all the people by a person unknown. On reading the contents they start from their seats, strike their foreheads with their hands, put on looks of extreme surprise and sorrow, and, when by all this they have drawn about them a numerous crowd, (earnest to know what the letter contained) “Romans,” says Virginius,



“the commons of Rome are in the utmost peril. If the gods, protectors of innocence, had not interposed, we had been inevitably undone. Be pleased to remain here till we have acquainted the senate with our intelligence, that so all may unite in taking measures for the preservation of the republic.” This said, away they went to the consuls. While the consuls assembled the senators, various were the discourses and imaginations of the people in the Forum, concerning the contents of the letter. The emissaries of the tribunes, following their instructions, put about reports expressly contrived for the occasion. The rest believed and spoke each man according to his fears. Some said, the letter doubtless imported, that Cæso Quinctius had been chosen general of the Æqui and Volsci, and was coming with a numerous army to attack Rome. Others knew for certain, that Cæso’s business was only to crush the commons of Rome, deprive them of their privileges, and abolish the tribuneship; and that with the universal consent of the patricians, he had undertaken to do this by the means of a foreign army. No, (said others) not all the patricians are in the conspiracy, but the younger of them only; and many affirmed that Cæso was not coming, but was already in the city, though concealed, and was actually contriving with his associates to seize the fortresses and all the advantageous posts.

The senate being assembled, Virginus, in

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hundred fifty-  
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Fiftieth  
Consulship.

D. Hal. B.  
10. p. 635.  
& seq.

Year of  
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CCXCIII.  
Bef. J. C.  
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Fiftieth  
Consulship.

the name of the whole college of tribunes, delivered himself in words to this effect: "Many rumours, conscript fathers, have of late prevailed in the city, concerning some great evil with which we are threatened; but as they were uncertain and devoid of proof, we durst not report them to you, lest our so doing should raise a commotion, and you should think us more hasty and rash than prudent. We did not however neglect these rumours, but used our best endeavours to discover the ground of them. At length the divine providence, perpetual guardian of this republic, has brought to light the hidden counsels of impious men. We have just received a letter from strangers, who have showed, that they have a true affection for us, and whom we shall hereafter name to you. Our foreign intelligence agrees exactly with the rumours at home. The danger presses; measures toward it must be immediately taken; but we resolved (as was fitting) to lay the matter open to you, before we inform the people of it. "Know then, that there is a conspiracy formed against the commons of Rome, by persons of distinction; among whom, it is said, there are some, not many, of the elder senators; that the greater number of the conspirators are knights, not yet received into the senate, and whom it is not yet time to mention by name. They are resolved (so we are informed) to take the opportunity of some dark night to attack us in our sleep. Breaking



into our houses, they are to cut the throats of the tribunes, and of all those plebeians who have distinguished themselves by a zeal for the liberty of the people. And when we are once taken off, they think they shall easily prevail with you to revoke, by an unanimous decree, all the concessions you have made to the commons. And, as they saw that a considerable number of foreign soldiers would be necessary for the execution of this design, they have associated in their enterprise one of your exiles, Cæso Quinctius, and have made him the chief conductor of it; a man whom, though convicted of sedition and murder, some, here present, rescued from punishment by contriving his escape from Rome. To him the conspirators have promised magistracies and honours, and other rewards of his noble exploits. He, on his part, has engaged to bring to their assistance, of the Æqui and Volsci, such a force as they want. In a short time he is to be here with some of the most daring of them, whom he is to introduce into the city, not all together, but secretly one by one, or in small numbers successively. The rest are soon to follow, and, when we the tribunes are slain, fall without mercy upon every poor plebeian, who shall offer to defend his liberty.

“In this extremity of danger we have recourse to you, conscript fathers, and conjure you by all that is most sacred, not to abandon us to the rage and cruelty of these our wicked enemies; but to aid us in taking due vengeance on the authors of so detestable an en-

Year of  
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Year of  
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Consulship.

D. Hal. B.  
10. p. 637.  
& seq.

terprise. The first thing we humbly entreat of you is (and nothing can be more reasonable) that by a decree you authorize us tribunes to take informations against the conspirators. It is surely fitting, that, in such an inquisition, the persons whose lives are threatened by the plot, should be the inquisitors. If there be any man here, who shall oppose this demand, he must either be out of his wits, or deeply engaged in the conspiracy.”

The senators were greatly astonished at this relation, and no less perplexed by the tribunes' request: they laid their heads together, but could not resolve what answer to make. They feared to grant what the tribunes demanded, and they feared to refuse it. Claudius, the consul, suspecting some deceit, delivered them out of their dilemma. Rising up, he thus answered: “You are extremely mistaken, Virginius, if you imagine that any member of this house is so foolish, or such an enemy to the people, as to be against an inquiry into the plot you speak of (if any such plot there be), or against admitting the tribunes into the number of the inquisitors. But, to tell you my mind freely (and I have no apprehension of being thought one of the conspirators), I look upon this whole matter as a pure invention and stratagem of your own, to revenge yourselves on us for our opposition to your bill. If there be any plot on foot, you are the plotters. The result of those long and close consultations you held in the Forum, was this notable scheme. You were first to alarm the peo-

ple with rumours of impending danger, and by this prepare their minds to receive implicitly any dreadful story you should afterwards please to give out. Then a person unknown was to deliver to you in public, a letter containing intelligence of a conspiracy against the commons of Rome. Thus furnished with matter of complaint, you were to come to the senate, be very angry, and demand a decree empowering you to sit inquisitors on this important affair. Thought you, 'If the patricians reject our request, we can take occasion from thence to make them very criminal in the eyes of the people, who, exasperated to the pitch of fury, will be ready to execute whatever we shall prompt them to; on the other hand, if the patricians grant our request, we will then charge with treason all those of them, old and young, who have shown the most resolution in opposing our measures. The fear of a condemnation will either make them promise never more to oppose us, or compel them to leave the city. And thus we shall reduce our adversaries to a very inconsiderable number.'

“Such, conscript fathers, was the stratagem formed against the most worthy of our senators, such the snares laid for the innocent knights. And that what I say is true, a few words will evince.—Tell us, Virginus, and you, the rest of the tribunes, all in such imminent peril, who are those strangers from whom you received your intelligence? Where do they dwell? How came you acquainted with them? And how came they to be so well

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hundred fifty-  
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Fiftieth  
Consulship.

Year of  
R O M E  
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Bef. J. C.  
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acquainted with our councils and designs? Why delay to tell us who they are? Why promise to name them hereafter? You ought to have done it already. And where is that man, who brought you the letter you talk of? Why do not you produce him, that we may examine him, and thereby know whether what you say have any foundation of truth, or be only (as I suspect) a tale of your own forging? And then as to your domestic intelligence, which agrees so perfectly well with your foreign, what was it? Who gave it you? What makes you conceal your proofs, and not rather display them before us? but, in truth, it is not easy to prove what never was, nor is, nor will be.

“Conscript fathers, the thing speaks itself. The tribunes have formed a plot against us, and they would cover their fraud, by pretending that we have formed one against them. You may thank yourselves for this. You encouraged them to it, by arming those fanatic magistrates with such power, as you suffered them to assume, when they condemned Cæso Quinctius, the brave defender of the nobles, upon a false accusation. Since that time they keep no measures. They no longer point their wrath at this or that particular senator, but at the whole body of the patricians; they are for driving every honest man out of Rome! My advice is, that you keep a very watchful eye upon these tribunes, as upon seditious men, the contrivers of mischief. And I shall make no difficulty to warn the people, as I warn you. I shall freely tell them, that they



have nothing to fear, but from the malicious devices of their own deceitful magistrates, who, under the cloak of friendship, are their greatest enemies?"

The whole senate highly applauded this discourse of Claudius; they would listen no more to the tribunes; and the assembly broke up. Virginus with his colleagues hastened back to the people (who in the Forum waited their return), and inveighed most bitterly against the consuls and senators. Claudius presently appeared, and, by repeating what he had just said in the senate-house, convinced all the sober-minded, sensible men of his audience, that the pretended plot was a mere forgery. The weaker sort however continued to believe it true; and as for the profligate and ill-intentioned part of the multitude, men greedy of novelties, they did not care whether it were true or not: all they wanted was a pretext for sedition.


SUCH is the story Dionysius has given us, of the deep-laid scheme, the wonderful contrivance of the tribunes to prevent any further opposition to their bill. They gravely and pathetically request of the senate to erect them into a court of inquisition for examining into the treasonable practices, and disposing of the liberties and lives of the Roman senators and knights. And the ground of this modest demand is a letter which they pretend to have received from some strangers, advising them of a plot formed by the nobles of Rome against the commons. The senators, though they lay

Year of  
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Consulship.

D. Hal. B.  
10. p. 639.

Year of  
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Fiftieth  
Consulship.

their heads together, are embarrassed, and much at a loss for an answer. But the consul Claudius being a man of deep penetration, and a ready wit, it comes into his mind to ask the tribunes, ‘ Who sent the letter? and who brought it?’ And they would not tell; and so there is an end of the matter<sup>2</sup>.

<sup>2</sup> Mr. Vertot is so fond of this story, that he has given himself the pleasure to improve it. Dionysius imputes to the tribunes no other aim in their device, but to terrify the plebeians, and make them entertain a suspicion of those young nobles who affected popularity. And when he introduces Claudius as an orator, displaying the malice of the tribunes, the worst charge he puts into his mouth against them is a design to compel, by fear of condemnation, the most vigorous opponents of their bill, either to desist from their opposition or to leave the city. But Mr. Vertot roundly asserts, that the tribunes secretly formed the dreadful design of cutting off at one stroke the better part of the senate, and of involving in the same ruin all the patricians, who on account of their credit or riches were odious to them and suspected by them: “ *Ils formerent secretement l’affreux dessein de faire perir tout d’un coup la meilleure partie du senat, & d’envelopper dans leur ruine tous les patriciens qui leur étoient odieux & suspects par leur credit ou par leurs richesses.*” The Abbé forgets that in those days the Romans were not so thirsty of civil blood. They could be very angry with one another, and belie one another, and box and kick, but were not disposed to murder in their quarrels. And it is not a whit more probable that the tribunes projected such a terrible slaughter of the nobles, than that the nobles projected a massacre of the tribunes and the other principal men of the plebeians. Nay, if we may judge of the honesty of the parties, by the cause in dispute, the tribunes will have the advantage. For their bill, which the patricians opposed by illegal violences, was a very good bill, and tending much to the benefit of the commonwealth.

*Antiquities of the Romans, vol. II. p. 109.*

## CHAP. XXII.

*The capitol is surprised by a foreign enemy, the plebeians refuse to arm in order to retake it. Valerius, the consul, overcomes their obstinacy, and the capitol is recovered.*

IN the midst of these intestine quarrels and commotions, the capitol, and the fortress adjoining to it, were one night surprised and seized by four thousand five hundred men, outlaws and slaves, under the conduct of a certain Sabine named Appius Herdonius. He put to the sword all the Romans he could find there, who refused to join him in his enterprise. Those who escaped ran down into the Forum with the utmost speed of fear, crying out, "To arms! To arms! The enemy is in the city." The consuls not knowing whether this sudden evil came from foreign or domestic foes, from the discontent and enmity of the commons, or a plot of the slaves, were both afraid to arm the plebeians, and afraid to leave them unarmed; nor could they bring the multitude, struck with consternation and affright, under any government; sometimes their endeavours to appease the tumult made it more stormy. They gave out arms, but not to all indifferently; to such only as they could most confide in; a number sufficient for defence, till it could be known what enemies they had to deal with; and, full of anxiety, they passed the remainder of the night in posting guards at all the proper places. Day-light discovered both whence the war came, and who was the conductor of it. Herdonius from the capitol cried

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hundred fifty-nine.

Fiftieth  
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Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hun-  
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Consulship.

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out, "Liberty to all slaves! I have undertaken the cause of the miserable, to restore the exiles to their country, and to remove the heavy yoke of servitude from the necks of those who bear it. It would be my choice, that the Roman people should themselves do this. But if they refuse, I will bring hither the Æqui and Volsci, and leave nothing unattempted to accomplish my purpose." The mystery being now somewhat explained, the consuls and senators became very uneasy with the apprehension lest the enterprise should have been concerted with the Sabines and Veientes, whose forces would presently appear to support it; and lest the Æqui and Volsci, eternal enemies of Rome, should now come, not to plunder the frontiers as formerly, but to assault the city. But their greatest dread was of their slaves at home, no man knowing but he had an enemy in his own house. It was dangerous to trust them, and dangerous to show a distrust of their fidelity. Affairs seemed in so desperate a condition, that even concord among the citizens would scarce be sufficient to preserve the state; and while such heavy calamities hung over it, nobody feared any thing from the tribunes or the plebeians. The evils of which these were wont to be the authors were of a gentle kind, and ever occasioned by the absence of all other evils; and the terror of a foreign enemy seemed now to have laid asleep the animosity of the commons. Nevertheless, it was this that bore heaviest upon the republic when thus inclining to a fall. For as the consuls had at

first doubted whether the alarm from the capitol were not some stratagem of the tribunes in favour of their bill, so the tribunes suspected the same alarm to be a contrivance of the nobles to defeat the bill. They bawled out, "No invasion! An imaginary war! A trick to make us forget the bill! The bill once passed, those clients and guests of the patricians will steal away more silently than they came!" Instantly they send to the people to quit their arms, and assemble upon the affair of the law. In the meantime the consuls convene the senate; and the fathers are now struck with more fear by the tribunes than they had been by the nightly invasion of the enemy. Word is brought that the soldiers have laid down their arms, and quitted their posts. The consul Valerius rushes out of the senate-house, hastens to the Forum, expostulates with the tribunes "on their madness in calling the people from their arms to attend to law-making, while the enemy is over their heads.—Are you then in confederacy with Herdonius? He who could not entice our slaves to join him, has he drawn you to his party?" Then turning to the people, he urges them with motives from religion, "their reverence for Jupiter, Juno, Minerva, all the gods and goddesses now prisoners to a foreign enemy, nay in captivity to slaves.—O father Romulus, inspire thy people with the same spirit which animated thee, when thou didst bravely recover the citadel from the Sabines! Move them to march in the same path by which thou didst conduct thy army!

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hundred  
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Consulship.

Livy, B. 3.  
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Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hun-  
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Fiftieth  
Consulship.

Livy, B. 3.  
c. 17.

lead them on! As far as a mortal can follow a god, I will be the first to follow thee and tread in thy steps." He concluded with declaring, "that he then called every Roman to arms; and that, without regard to the bounds of the consular authority, or the extent of the tribunitian, or the *leges sacratæ*, he would treat every citizen who disobeyed his orders as an open enemy to his country. That the tribunes, who had forbid them to fight against Herdonius, might, if they pleased, command them to take arms against Valerius the consul: but that he should make no scruple to do by those magistrates as the founder of his family had done by the Tarquins."

All this was of no effect. "The bill! The bill! Let us pass the bill!" Yet the tribunes were not able to proceed in this affair; nor could the consul prevail with the people to march to the capitol. Night put a stop to the contention. During the night, fear of the armed citizens, whom the consuls had at their devotion, kept the tribunes quiet. These out of the way, the senators went diligently about among the plebeians, admonishing and entreating them to consider, "into what extremity of danger they brought the republic. That the contest was not now between the nobles and the commons, that both nobles and commons, the citadel, the temples of the gods, the tutelary gods of the state, the domestic gods of every private citizen were just upon the point of being yielded into the power of foreign enemies." While the senators were employed in



these attempts to bring the multitude to reason, the consuls, lest the Sabines and Veientes should come suddenly and attack the city, busied themselves in posting guards to defend the gates and walls. At day-break a body of men appeared in the field advancing towards Rome. These at first could be no other than enemies, they must be the Æqui and Volsci; however, to the great joy of the city, they were soon discovered to be Tusculans, coming to the assistance of the Romans, their allies.

The news of the capitol's being surprised, and of the dissensions in Rome, having the night before reached Tusculum, Mamilius, the chief magistrate of the place, had represented to the council, that they could never hope from the gods so fair an opportunity of obliging a powerful and neighbouring state, and had persuaded them to prevent all application from the Roman senate for succour. These forces, admitted within the walls, marched straight to the Forum, where Valerius (having left his colleague to defend the gates) was drawing up his men in order, for battle. He had prevailed with the plebeians (in spite of all the clamours and remonstrances of their tribunes) to enlist themselves, and take the military oath, by giving them his solemn promise, "that the capitol once recovered, and the city restored to quiet, if they would then suffer themselves to be informed of the deceitfulness of the tribunes, and the mischiefs concealed under their specious law, he, for his part, calling to mind his ancestors, and that sur-

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hundred fifty-  
nine.

Fiftieth  
Consulship.

Livy, B. 3.  
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Year of  
R O M E  
CCXIII.  
Bef. J. C.  
Four hundred fifty-  
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Fiftieth
Consulship;
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name*, together with which they had transmitted to him an hereditary concern for the interests of the people, would give no disturbance to the councils held by the commons."

And now the Romans and their auxiliaries, rivals for the glory of retaking the capitol, briskly advanced, and forced their way up the hill, notwithstanding the enemy's advantage of the ground. They had reached the portico of the temple, when Valerius, fighting in the foremost rank, received a mortal wound. Volumnus, a consular person, who saw him fall, instantly covered his body, took his place and his charge, and kept the men so warmly and intently engaged in the attack, that they gained the victory before they had perceived they had lost their general. Great was the slaughter of the invaders, the temple polluted with their blood, Herdonius³ himself slain; the prisoners punished suitably to their respec-

³ Livy's relation (brief as it is) of this adventure has been followed in the text. He calls Herdonius a Sabine, but says nothing of his character, his rank, or the situation of life he was in, when he undertook to seize the capitol; or of the ultimate end he proposed to himself in that enterprise; nor does he inform us how, or from whence, Herdonius collected such a number of exiles and slaves, or what made it so easy for him to possess himself in the night of the temple and citadel. Probably the Latine historian had not sufficient light into these particulars. But Dionysius, who is rarely ignorant of any thing knowable or unknowable, tells us, 640, that the Sabine Herdonius was a man of distinction in his own country for his birth and riches; that those who followed him in his undertaking were his own clients and domestics, to the number of about four hundred, and that he purposed to destroy the Roman power. However, the

tive ranks of freemen or slaves. The Tusculans received the public thanks. The temple


historian cannot say, whether by this destruction Herdonius meant to make himself tyrant of Rome, or to subject Rome to the Sabines, or only to acquire a great name by his exploits. When he had prepared a sufficient quantity of arms, provisions, and all things necessary for the expedition, he embarked his four thousand men on some river-boats, which gliding down the stream of the Tiber, he arrived at Rome about midnight, when all was quiet; landed on the bank of the river next the capitol, and not above a furlong from it. That the gate Carmentalis, at the foot of the hill, being always, by the express command of an oracle, left open, he there entered, and silently mounting the steep ascent, seized the temple and fortress. That he hoped, when possessed of this strong place, to be joined by the exiles, the slaves, the insolvent debtors, and all the worst part of the Roman populace, whose wretchedness, he thought, held them ready for any change that could be proposed: he placed great confidence in the discord reigning at Rome, imagining that the plebeians would not unite with the patricians to oppose him. And in case these hopes failed, he resolved to invite to his assistance a numerous army of Sabines and Volsci, and other neighbouring nations who would be glad of an opportunity to shake off the insupportable yoke of the Roman government. Herdonius was disappointed in every expectation. Neither the exiles, nor the slaves, nor the debtors, nor the indigent populace of Rome, repaired to him. Nor had the strangers, on whose aid he so much depended, the time necessary to prepare for the war; for the whole affair was over in three or four days.

Upon this relation, given by Dionysius, I shall only observe, that this well-born, wealthy, and powerful Sabine, so much at his ease at home, must have been somewhat mad to embark in such an enterprise without a previous approbation of it by the governors of his own nation; any preparation on their part to assist him in it, or even any promise of assistance from them, or from any other of the neighbouring states; and without having any intelligence

Year of
R O M E
CCXCIII.
Bef. J. C.
Four hundred fifty-nine.

Fiftieth
Consulship.

Year of
R O M E
CCXCIII.
Bef. J. C.
Four hun-
dred fifty-
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Fiftieth
Consulship.

was purified: and the people are said to have cast farthings into the house of Valerius, in order to his more pompous funeral.

with the discontented in Rome. And then for his collecting so many boats on the Tiber as would hold four thousand men, with the provisions necessary for their subsistence, and his stealing down the stream with his fleet, from Sabinia into the middle of Rome, without being discovered in his passage, or till he reached the capitol, these things are absolutely wonderful.

As to what passed in Rome, while Herdonius possessed the capitol, the Greek historian reports, p. 641, that when the plebeians, at the instigation of their tribunes, refused to arm, unless the Terentian law were first enacted, the consul Claudius declared, there was no need of their assistance; and exhorted the patricians to march with their clients against the enemy; and if more strength were wanted, call to their aid the Latines and Hernici, or even promise liberty to the slaves, and employ them, rather than solicit succour from unworthy citizens, who, when the state was in such calamitous circumstances, revived old quarrels: but that his advice was not approved by his colleague or the senators, who thought it expedient to yield to the times.

That Valerius, to gain the multitude, swore to them, that if they behaved themselves well in the present exigence, so as to restore quiet to the city, he would suffer the tribunes to propose the law, and would take care, that what the people determined should be put in execution before his consulship expired.

The plebeians hereupon enlist themselves readily for the war, and march with alacrity under Valerius to the attack of the citadel; in describing which attack the historian is as particular and circumstantial as if he had been there, but by his detail makes that appear impracticable, which he says was effected. See p. 642.

CHAP. XXIII.

I. The consul Claudius shows little regard to the promise given by Valerius to the plebeians. II. L. Quinctius Cincinnatus, elected to succeed Valerius, by various arts makes the tribunes desist from the pursuit of their bill. III. Virginius and his colleagues are rechosen to the tribuneship. The senate are for continuing Quinctius in the consulship; but he rejects the motion with indignation.


I. THE enterprise of Herdonius thus defeated, and peace restored, the tribunes without delay called upon the senators to perform what Valerius had promised; and they pressed Claudius to free the manes of his colleague from the guilt of treachery, by suffering the people without molestation to proceed on the affair of the law. Claudius, to elude this demand, insisted on the necessity of a new consul in the place of Valerius, before that business could regularly be brought into debate. The time passed in disputes on this head till the month of December, when, the *centuriate comitia* being held for the election, L. Quinctius Cincinnatus, through the indefatigable industry of the nobles, was appointed to the consular fasces¹. It was a thunderstroke to the plebeians to see themselves fallen under the go-

Year of
R O M E
CCXCIII.
Bef. J. C.
Four hundred fifty-nine.

Fiftieth
Consulship.
Livv. B. 3.
c. 19

¹ According to Dionysius, (p. 664) Quinctius was at his farm, actually following the plough, and much astonished, when his election to the consulship was notified to him. But it is not probable that so worthy a patriot, living so near the city, should be less forward to assist in recovering the capitol from Herdonius, than the Tusculans. Nor is it likely, if he came to Rome on that occasion, that he should

Year of
R O M E
CCXCIII.
Bef. J. C.
Four hun-
dred fifty-
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Fiftieth
Consulship.

vernment of a magistrate of great personal merit, great credit, and highly provoked against them by their banishment of his son Cæso, and who had three other sons in magnanimity not inferior to Cæso, in prudence surpassing him.

Cincinnatus had so sooner entered on his office, than he began to bluster like a man angry with every body, and determined to be a severe reformer of manners. He sharply reproved the senators for their meanness of spirit, and want of resolution, in suffering the same men to be continued in the tribuneship from year to year, men who with noise and foul language lorded it over the state, as if it were some disorderly house which they kept. “Courage, constancy, every virtue civil and military, was driven from Rome with my son Cæso. Babblers, sowers of sedition, reign here like kings with perpetual and absolute sway. What! did you march your troops, (with reverence for Caius Claudius and the dead Valerius be it spoken) did you march up to the capitol, before you had cleared the Forum of those enemies, Virginius and his colleagues? Did Virginius deserve less punishment for not being in the capitol, than Herdonius for having seized it? by Hercules, he deserved greater. Herdonius declared himself your enemy; he put

be ignorant of the universal combination of the nobles to raise him to the consulship, or that he left the city before his election.

Livy says nothing of the plough. Cincinnatus is chosen dictator.

you upon your guard. Virginius, by denying there was any war, would have disarmed you, exposed you naked and defenceless to your slaves and exiles². What a shame, in the sight of gods and men, that the Tusculans should be before us in arming for our defence: that it should be doubtful whether Mamilius the Tusculan general, or our consuls, recovered the capitol! And this is what you, tribunes, call succouring the plebeians, exposing them to be slaughtered by the enemy! Jupiter, the most high, the all-good, was not worthy to be rescued, when beset by slaves and exiles: but your persons are sacred and inviolable! And do you flatter yourselves that thus covered over with crimes against gods and men, you shall pass your bill this year? Unfortunate was the day, when I was chosen consul, more unfortunate than that in which Valerius was slain, if you even offer to prefer your bill. But no more of that at present, I now give you notice, that my colleague and I intend to march the legions against the Æqui and Volsci. I know not by what fatality it so comes to pass, but the gods are ever more favourable to us in war than in peace."

The consul quite stunned the multitude by this menacing speech. A winter campaign was a dreadful thought. The patricians began to lift up their heads; their affairs seemed to be upon the recovery. Claudius, who had spirit enough to join in a bold enterprise, but

Year of
R O M E
CCXCIII.
Bef. J. C.
Four hundred fifty-
nine.
~~~~~  
Fiftieth  
Consulship.

<sup>2</sup> From this expression it would seem that the slaves, whom Herdonius commanded, were some who had run away from their Roman masters.

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
nine.

  
Fiftieth  
Consulship.

Livy, B. 3.  
c. 20.

not the sort of courage necessary to form one, readily suffered his colleague to take the lead on this occasion, yet he talked as big as if he had been the author of the measure; he would do wonderful things, yes, he would show himself to be a consul. The tribunes scoffed at them both. "And where," said they, "will you get the army, which you are to lead into the field? We shall suffer no levies to be made." "We need none," answered Quinctius. "The troops which Valerius enlisted for retaking the capitol, all swore to rendezvous at the consul's command, and not to disband themselves without his permission; and we strictly enjoin every soldier, who took that oath, to appear in arms to-morrow at the lake Regillus." To which the tribunes replied, "that the oath did not bind the soldiers to his obedience, who was then only a private man." However, this evasion did not satisfy the consciences of the people. "That contempt for the gods, so prevalent in our age," says Livy, "had not in those days began to make its appearance. Men did not by interpretations contrive to make oaths and laws suit their private desires, but suited their manners to their oaths and to the laws."

The tribunes finding their cavil about the oath would not do, turned their thoughts to prevent, by some other means, the march of the troops from the city: for Quinctius talked of the expediency of passing the whole winter in the field. And the more to terrify both the commons and their magistrates, he declared, and often repeated it, "that [at his re-

turn from the war] he would hold no *comitia* for electing consuls; that the state was too much distempered to be cured by ordinary remedies: that it needed a dictator, who would make all disturbers of the peace feel the weight of an authority from which there lay no appeal."

The senate were at this time assembled in the capitol. Thither ran the tribunes, with the plebeians, all in consternation<sup>3</sup>, at their heels. The multitude with loud voices called out sometimes upon the fathers, sometimes upon the consuls, to compassionate their case.

<sup>3</sup> Livy tells us, that what contributed to frighten the plebeians into submission, was a rumour spread, "that the augurs had been directed to repair to the lake Regillus, in order to consecrate a place for holding the *comitia*, where every article which had been carried at Rome, in favour of the commons by tribunitian violence, would be abrogated: since the consuls would there be masters, and the tribunes, whose right of opposition did not extend beyond a mile from the city, would, if they came there, be upon the foot of private men."

Dionysius says nothing of this: nor does it seem probable that the people should be alarmed with the apprehension of a design which certainly could never take place. For had it been practicable to any purpose, it would long before have been put in execution.

The only struggle in the minds of the people at this time, seems to have been between the military oath and the winter campaign; and, to the honour of the soldiers, the oath carried it; they had recourse to entreaties for avoiding the cold. Perhaps the character of Quinctius, and his manner of life, had no small share in bringing the plebeians to submission, for the present. It is observable how much more tamely they could suffer themselves to be hectorred by this ploughman consul, than by an Appius Claudius.

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hundred fifty-nine.

Fiftieth  
Consulship.  
Livy, B. 3.  
c. 20.  
c. 21.



Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
nine.

  
Fiftieth  
Consulship.

Quinctius would listen to no entreaties, till the tribunes had promised to abide by what the senate should judge fit to be done. Then he reported their petition to the fathers, who thereupon made a decree, "that the tribunes should no more prefer their bill this year, and that the consuls should not lead an army from the city:" and the decree declared further, "that in the judgment of the senate, to continue the superior magistrates in their office after the expiration of their year, and to re-elect the same tribunes, were both contrary to the welfare of the republic."

D. Hal. B.  
10. p. 645.

Thus were all commotions calmed for the present; and Quinctius, during the remainder of his consulship, kept things quiet by a patient, candid, and equitable conduct in hearing and deciding causes between man and man, to which business he chiefly applied himself.

Livy, B. 3.  
c. 21.

But notwithstanding the senate's decree before mentioned, and the warm remonstrances of the consuls, Virginus and his colleagues prevailed to get themselves re-chosen by the people to the tribuneship. The senate, to be even with them, were for continuing Quinctius in the consulship [not doubting to carry his re-election in the *comitia* by centuries.] Never did Quinctius, during his whole administration, exert more spirit, or express a more vehement anger, than on this occasion. "Little cause to wonder, conscript fathers, that the plebeians make light of your authority! you trifle with your own decrees. What! are you in competition with the multitude, to try

which shall surpass the other in levity and inconstancy? Is this the contest in which victory is to give the victors the chief power in the republic? The headstrong multitude have broken through your decree, and therefore you will do the same! An excellent example truly you have chosen to follow! For my part, I shall not imitate the tribunes; I will not suffer myself to be re-elected to my office. And I exhort you, Caius Claudius, to restrain the Roman people from such licentious proceedings." The fathers hereupon issued an edict, "forbidding all persons to name Lucius Quinctius at the next elections, for one of the consuls; and declaring, that if any one did his vote should not be admitted."

The *comitia* being held, they gave the consular fasces to Q. Fabius Vibulanus\* and L. Cornelius Maluginensis.

Upon advice that the Æqui and Volsci were making great preparations for war, the new consuls summoned the allies to furnish their contingents of troops for the service. An army was formed, one third Romans, two thirds Latines and Hernici. Fabius had the conduct of it, and entirely routed the enemy near Antium.

In the meantime a body of the Æqui surprised the citadel of Tusculum in the night. This news, which was carried first to Rome, and thence to the camp before Antium, affected the Romans as much as if the capitol had been again seized. Mindful of the friendly part which the Tusculans had lately acted in

Year of  
R O M E  
CCXCIII.  
Bef. J. C.  
Four hundred fifty-nine.

Fiftieth  
Consulship.

\* 3d.

Year of  
R O M E  
CCXCIV.  
Bef. J. C.  
Four hundred fifty-eight.

Fifty-first  
Consulship.  
Livy, B. 3.  
c. 22.

Year of  
R O M E  
CCXCIV.  
Bef. J. C.  
Four hun-  
dred fifty-  
eight.

Fifty-first  
Consulship.

Livy, B. 3.  
c. 23.

the affair of Herdonius, Fabius with all expedition marched to their relief. The enemy, to hinder succours from coming to the city, had encamped an army not far from the walls. Fabius, with only a part of his forces, kept that army in play, sending the remainder to assist the Tusculans to recover their citadel. This war lasted several months. Famine compelled the Æqui to submit; and the Tusculans made them pass unarmed and naked under the yoke: after which the consul pursued them in their return homeward, and cut them all off to a man. Cornelius<sup>4</sup>, who had staid at Rome, to guard it from any sudden attack, now marched the troops under his command from the city; and the two consuls, taking different roads, invaded, plundered, and laid waste the lands of the Æqui and Volsci.

At Rome the tribunes complained that these wars were protracted merely to keep off the affair of the law; and they loudly declared that nothing should hinder them from going through with what they had undertaken. Nevertheless Lucretius, præfect of the city, prevailed with them to defer the business till the arrival of the consuls. The consuls<sup>5</sup> returned from the war, and entered the city with their armies in

<sup>4</sup> According to Dionysius, p. 648, Antium revolted this year, and was subdued by Cornelius. And Livy says, that the greater number of authors report this; but that he does not find it in any of the earliest.

<sup>5</sup> Livy tells us, B. 3. c. 24. that at this time a new source of civil contention arose in the republic: that the quæstors cited M. Volscius Factor to trial before the people, on the charge of his having given false testimony against Cæso:

Livy in representing the case of Cæso before the people, says, that the quæstors cited M. Volscius Factor to trial before the people, on the charge of his having given false testimony against Cæso:



triumph; and because the tribunes now said nothing of the law, it was generally believed that they were deterred from that pursuit: but in truth, a far different reason occasioned their silence. As the year drew towards a close,

that the tribunes put a stop to the prosecution, refusing to let the *comitia* be held for that trial, unless they were first held for enacting their law, and that both these affairs were put off to the return of the consuls: that no steps were taken with regard to either before the consuls of the new year had entered on their office: that then Cæso's uncle, Titus Quinctius, (who had been thrice consul) and Marcus Valerius, men of more weight than their predecessors, were the quæstors: that because Cæso, the glory of the Roman youth, could not be restored either to his family or to his country, Quinctius, from a spirit of justice, and from an affection for his kinsman, made war upon the false witness, who had deprived him, though innocent, of the liberty of pleading in his own defence. *Is quoniam neque Quinctiæ familiæ Cæso, neque reipublicæ maximus juvenum restitui posset, falsum testem, qui dicendæ causæ innoxio potestatem admitteret, justo ac pio bello persequabatur.* C. 25.

What Livy means to say by this I know not. For, by his own account, Cæso ran away to avoid a trial on Volscius's accusation: and, as to the crimes and misdemeanors with which the tribunes had charged him, neither his uncle nor his own father had pretended that he was innocent. And, according to Dionysius, Cæso would not own the jurisdiction of the court.

Notwithstanding the great weight of these quæstors, the opposition of the tribunes stopped the prosecution once more. But the next year, when the father of Cæso was dictator, the tribunes, intimidated by his absolute power, durst not oppose the bringing Volscius to trial; and he was convicted, condemned, and banished to Lanuvium. Liv. c. 29.

Dionysius says nothing of all this, nor indeed has it any shadow of probability, if, as the Greek historian relates, Volscius was all the time one of the tribunes; which, according to Livy, he was not.

Mr. Vertot has followed Dionysius in making the accuser of Cæso one of the tribunes, and yet has followed Livy in representing the accuser of Cæso as tried, convicted,

Year of  
R O M E  
CCXCIV.  
Bef. J. C.  
Four hun-  
dred fifty-  
eight.

Fifty-first  
Consulship.

Year of  
R O M E  
CCXCIV.  
Bef. J. C.  
Four hun-  
dred fifty-  
eight.

Fifty-first  
Consulship.

they had their thoughts wholly intent on getting themselves elected a fourth time to the tribuneship; and, in spite of the most vigor-

and banished in that very year, when, according to Dionysius, p. 648, he was in his fourth tribuneship.

Both Mr. Vertot and Mr. Rollin, founding themselves wholly on a passage in Cicero's oration *pro domo sua*, relate, that in the short dictatorship of Quinctius Cincinnatus, (when Volscius is said to have been banished) Cæso was recalled from banishment. Cicero's words are these: *At verò, ut annales populi Romani, et monumenta vetustatis loquuntur, Cæso ille Quintius, et M. Furius Camillus, et M. Servilius Ahala, cum essent optime de republica meriti, tamen populi incitati vim, iracundiamque subierunt, damnatique comitiis centuriatis, cum in exsilium profugissent, rursus ab eodem populo placato sunt in suam pristinam dignitatem restituti.* One would imagine from the total silence of Livy and Dionysius, as to the recalling of Cæso, that *annales* and *monumenta*, of which Cicero speaks, were wholly unknown to them, or that they considered them as of no authority. Nor perhaps is the orator much to be regarded when, to serve a present turn and his own private interest, he brings precedents from ancient history of cases like his own. It is plain that neither the Latin nor the Greek historian have taken him for their guide. But what seems decisive against the authority of Cicero in this instance, is his saying, that Cæso was condemned in *comitia* by centuries, which is expressly contradicted by the whole history of those times. The tribunes did not pretend to hold *comitia* by centuries, and yet they held the assembly for the trial of Cæso. If Cicero be right, and Cæso, a young patrician, was condemned by the centuries, it will afford a strong presumption, that all the trials of CONSULARS in the COMITIARY BY TRIBES, which Dionysius has recorded, are mere fables.

Father Catrou, not finding that Cæso was recalled, or that any motion was made for recalling him, either when his uncle was quæstor, or when his father was dictator, concludes that he was dead; or perhaps he gathers this from these words of Livy: *Quoniam neque Quintie familiæ Cæso, neque reipublicæ restitui posset.* But there seems no need to have recourse to the supposition of Cæso's death to accoun

ous opposition from the consuls, they carried their point.

Towards the end of this year the Æqui sued for peace, and the senate made a treaty with them, importing, that they should keep possession of the towns and lands they then held, and be exempt from paying tribute to the republic, but, like the other allies, furnish her with as many auxiliary troops as she occasionally should require.

Year of  
R O M E  
CCXCIV.  
Ref. J. C.  
Four hundred fifty-eight.

Fifty-first  
Consulship.

for his not being recalled : for the same tribunes who had prosecuted him were still in office, and the bill, which had given occasion to Cæso's violences and misdemeanors, was still depending ; and it is not to be imagined that the tribunes would suffer his return to Rome, before that affair was determined. If I might have leave to conjecture, I should say, that Cæso was never recalled, that he was guilty not only of the misdemeanors with which the tribunes charged him, but likewise of the murder of which Volscius accused him, and that this Volscius did not get the surname of *Fictor* from his having given false evidence, but that false evidence was in after times imputed to him by the historians, merely on account of his surname, which meant nothing worse than *the potter*.

#### CHAP. XXIV.

I. *L. Quinctius Cincinnatus is named to the dictatorship; he rescues the Roman army out of extreme danger; and the 16th day after his promotion resigns his office.* II. *The tribunes oppose the necessary levies for a war with the Æqui. They are at length induced to wave their opposition, but do it conditionally, that the commons may be permitted to augment the number of their tribunes to ten.*

I. IN the beginning of the new administration of L. Minucius and C. Nautius, Virginius

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Year of  
R O M E  
CCXCV.  
Bef. J. C.  
Four hun-  
dred fifty-  
seven.

Fifty-se-  
cond Con-  
sulship.

Livy, B. 3.  
c. 25.  
D. Hal. B.  
10. p. 648.  
& seq.

Livy, B. 3.  
c. 26.

and his colleagues pressed forward the affair of the law, to bring it to a conclusion. Yet they allowed the consuls two months' time to consider of it, and expose to the people the mischiefs latent under it, if any such there were; after which it was to be proposed in *comitia*, and put to the vote. This concession made all quiet in the city. But the tranquillity did not last long: for the Æqui breaking the treaty they had made the year before, invaded and plundered the territory of the Tusculans, allies of the Roman republic, and, loaded with spoil, retired with it to the hill Algidus, (about twelve miles from Rome) where they encamped. The senate despatched three ambassadors thither to complain of the injury, and demand restitution. Gracchus Cluilius, general of the Æqui, had pitched his tent under a large oak for the sake of the shade. "There!" said he to the ambassadors, "deliver your errand to that tree! I have other business to mind." They returned to Rome, and reported the reception they had met with. Instantly the senate ordered one of the consuls to march against Gracchus, and commissioned the other to enter the frontiers of the Æqui, and lay the country waste. The tribunes at first obstructed the levies, and perhaps would have continued so to do, but for a second invasion. A numerous army of Sabines advanced almost to the very walls of Rome; and the devastations they made could not patiently be endured by the people. Regardless of the dissuasions of their tribunes, they now readily offered themselves for the

service. Two armies were presently raised. The Sabines retired: Nautius marched into Sabina, and did more than make reprisals on the enemy. Minucius, who led his forces against the Æqui, had neither the success nor the courage of his colleague. He pitched his camp not far from the enemy, but kept close within it through fear<sup>1</sup>. When the Æqui perceived his cowardice, it gave them the boldness to attack his camp in the night; but they found it too strong to be forced. The next day therefore they drew lines about it, in order to starve their enemies into a surrendry at discretion. Before the Romans were quite inclosed, five horsemen found means to make their way through the quarters of the Æqui, and carried the news to Rome. Quinctius Fabius, governor of the city, immediately despatched a messenger to the consul Nautius, to inform him of the distress his colleague was in. Nautius, leaving his army to the care of his lieutenants, repaired to Rome in all haste. He arrived there in the night, and without delay had a conference with the chief of the senate, who all agreed to have recourse to the usual expedient in great exigencies, a dictator: whereupon the consul, with universal approbation, named L. Quinctius Cincinnatus to

Year of  
R O M E  
CCXCV.  
Bef. J. C.  
Four hun-  
dred fifty-  
seven.

Fifty-se-  
cond Con-  
sulship.

<sup>1</sup> Dionysius says nothing of the cowardice of Minucius, but represents him as rashly pursuing the enemy, who, by artfully retreating before him, drew him into a disadvantageous situation, and then blocked him up in his camp.

Year of  
R O M E  
CCXCV.  
Bef. J. C.  
Four hun-  
dred fifty-  
seven.

Fifty-se-  
cond Con-  
sulship.  
Livy, B. 3.  
c. 26.

that important dignity, and then returned to his army.

The persons deputed to give Quinctius notice of his nomination to the dictatorship, found him busily employed about his farm, either following a plough or digging a ditch. After the common mutual salutations, they desired him to put on his gown, and hear their commission to him from the senate. "What is the business?" said Quinctius in surprise, "Is all well?" Then turning to his wife, who was in the field with him, "RACILIA, go fetch my gown. Make haste." The dust and sweat wiped from his face, and the gown put on, the deputies straight saluted him DICTATOR, invite him to Rome, and informed him of the perilous condition of the army. A barge belonging to the public was ready to convey him to the city. His three sons, his other relations and friends, and the greater part of the senate, received him at his landing. With this attendance, and with four and twenty lictors walking before him, he was conducted to his house. Crowds of plebeians likewise put themselves in his train; but they were not very glad to see him, for they thought him clothed with too much power, and feared the use he might make of it. They kept watch all that night.

Quinctius, the next morning, before day-break, went to the Forum, and there named for his general of the horse, L. Tarquitius, a patrician of distinguished bravery, but who being too poor to keep a horse, had till then



never served but in the infantry. Thus all the hopes of the republic lay in an old man called from the plough to command in chief, and a foot soldier raised to be general of the horse.

The dictator, by proclamation, ordered a suspension of all process in the courts of justice, the shops to be shut up, and all the citizens, able to bear arms, to be before sun-set in the field of Mars, each with five days' provisions, and twelve stakes for a palisade. Whoever through age was disqualified for the service, was to dress the provisions for the soldier who lived nearest him, while he furnished himself with the stakes, and got ready his arms.

All these commands punctually executed, and the forces drawn up in good order, not only for marching, but fighting, if need should require, the dictator, at the head of the infantry, and Tarquitiuſ, at the head of the cavalry, led forth the army. No alacrity was wanting either in the commanders or their men. "Quicken your pace, ſoldiers," ſaid the leaders, "let us come up with them this very night. Expedition! a Roman conſul and his army beſieged! three days inveſted! who knows what may happen in a day or a night? A ſingle moment often decides in great events." The generals had the pleaſure to hear the ſoldiers, and thoſe who bore the colours, mutually call upon each other, "Faster, enſign!—ſoldiers, keep up!" And thus by midnight they reached the Algiduſ.

Quinctiuſ made a halt, as ſoon as he perceived he was near the enemy. And when,

Year of  
R O M E  
CCXCV.  
Bel. J. C.  
Four hundred fifty-seven.

Fifty-second Consulship.

Livy, B. 3.  
c. 28.

Year of  
R O M E  
CCXCV.  
Bef. J. C.  
Four hun-  
dred fifty-  
seven.

Fifty-se-  
cond Con-  
sulpship.

by riding about, he had taken such a view of their camp as the obscurity of the night would permit, he ordered his men to heap all the baggage together in one place, and then return into their ranks with their stakes they had brought from Rome. This done he extended his forces, and invested the camp on his side of it: after which, on an appointed signal given, the soldiers all together gave a shout, and then fell every man to work to cut a trench before him, and plant his stakes. The shout reached beyond the camp of the Æqui to that of the consul. Sudden terror seized the one, universal joy the other. Nothing among the Roman soldiers but mutual congratulations on the arrival of succour. “No time to be lost!” cried Minucius. “Not only succour is come, but our fellow-citizens are actually in conflict with the enemy. I know it by the shout. To arms, to arms, follow me, soldiers.” Out sallied the legions to action, and by their shouts gave notice of it to the dictator. The Æqui were just going to make an effort to interrupt the works the dictator had begun, when the alarm from the other side obliged them to turn their chief strength that way, lest the consul should break through their camp. His attack kept them in play till the morning, so that Quinctius had the rest of the night free to go on with his fortification. Having finished it by day-break, he straight led out his forces to assault that of the enemy. A new conflict began; the former continued. The Æqui, now pressed on both sides, hopeless of defending

themselves, hopeless of relief, ceased the fight, and had recourse to supplications. They begged of the dictator, they begged of the consul, not to place victory in slaughter, but to suffer them to go off disarmed. The consul referred them to the dictator. Quinctius contemptuously answered them, that "he did not want their blood, he would let them go; but that, by passing under the yoke, they should at length make confession, that the *Æqui* were a conquered people. But first," said he, "send me hither in chains your general *Gracchus*, and ten other of your principal officers, [with these he meant to adorn his triumph] and you shall evacuate the city of *Corbio*." All was submitted to.

Year of  
R O M E  
CCXCV.  
Bef. J. C.  
Four hun-  
dred fifty-  
seven.  
Fifty-se-  
cond Con-  
sulship.

The dictator gave the plunder<sup>2</sup> of the enemy's camp to the soldiers he had brought with him from Rome, not suffering those of the consul to take any part of it. "You, soldiers," said he, "who were just going to fall a prey to our enemies, you shall have no share of their spoils." Then turning to the consul, "And you, *Minucius*, till you begin to have the spirit of a consul, shall command those legions in quality only of a lieutenant-general." *Minucius* abdicated the consulship, and, in

Livy, B. 3.  
c. 29. &  
D. Hal. B.  
10. p. 652.

<sup>2</sup> *Dionysius* reports (p. 652.) that *Quinctius*, after plundering *Corbio*, caused the most valuable part of the enemies' spoils to be conveyed to Rome, giving the remainder only to his soldiers, and that the senate would have enriched him out of the booty; but that he declined the offer, and chose rather to owe his subsistence to the labour of his hands.



Year of  
R O M E  
CCXCV.  
Bef. J. C.  
Four hun-  
dred fifty-  
seven.

Fifty-se-  
cond Con-  
sulship.

obedience to order, continued<sup>3</sup> with the army. Such respect, such ready submission to superior merit, and superior authority, were paid in those days, that the consular troops, less affected with the disgrace they suffered, than with the benefit they had received, decreed to the dictator a golden crown of a pound weight, and at his departure saluted him by the title of their patron.

Quinctius returned to Rome, and had there a magnificent triumph; after which, though he might have retained his high office six months, he resigned it the sixteenth day<sup>4</sup> from his promotion to it.

Year of  
R O M E  
CCXCVI.  
Bef. J. C.  
Four hun-  
dred fifty-  
six.

Fifty-third  
Consulship.  
Livy, B. 3.  
c. 29.

In the end of the year the tribunes began to stir again in the affair of the law: but as two armies were absent, (for the consul Nautilus made war against the Sabines) the senate carried it, that no bill should be preferred to the people; nevertheless, in the election of tribunes, the commons prevailed to have the same men, who had held the tribuneship four years successively, appointed a fifth time to that office.

<sup>3</sup> According to Livy, Quinctius Fabius was soon after sent from Rome to succeed Minucius in the command of the army.

<sup>4</sup> The reader will observe that Quinctius defeated the Æqui, and took their camp, the third day from his nomination to the dictatorship. The greater part of the remainder of the sixteen days, we may suppose, was spent in taking possession of Corbio, plundering it, and placing a garrison there. This, according to Dionysius, p. 651, was done by way of revenging the ill-treatment which the Tusculans had suffered from the Æqui.

II. THE consular fasces were transferred to C. Horatius and Q. Minucius. In the beginning of their administration, they had nothing to do abroad; but the tribunes, with their bill, found them sufficient employment at home; yet it was not long before the dispute on this head gave place to another; for news came, that the Aequi had in the night surprised the Roman garrison of Corbio, and taken the place by assault. The senate without delay ordered an army to be raised and led to the Algidus. "No levies!" said the tribunes; "the bill is the important point, the business that must be first settled." Neither consuls nor senate would hear of the bill. Both sides continued obstinate, till a second alarm was given from abroad. The Sabines made an incursion into the Roman territory, and advanced almost to the city walls. The tribunes then seeing a necessity of arming, began to treat with the senate. As they had been constantly

Year of  
R O M E  
CCXCVI.  
Ref. J. C.  
Four hun-  
dred fifty-  
six.

Fifty-third  
Consulship.

D. Hal. B.  
10. p. 652.  
& seq.  
Livy, B. 3.  
c. 30.

<sup>5</sup> Dionysius, p. 654, reports, that when the tribunes were obstinate in opposing the levies, all the senators, by the advice of Quinctius Cincinnatus, took arms and repaired to the Forum, determined to march out (supported only by their clients and adherents) against the enemy; that even the oldest of the fathers appeared in armour, but wept and looked so piteously, that the spectacle drew tears in abundance from the multitude: and a most ridiculous scene of affliction the historian, p. 655, most gravely makes of it. He adds, that the tribunes seeing the people so melted, and fearing that they should not be able to hinder the [weeping] plebeians from following the [weeping] patricians to the war, began then to covenant for an augmentation of the college, &c.

Year of  
R. O. M. E.  
CCXCVI.  
Bef. J. C.  
Four hun-  
dred fifty-  
six.

Fifty-third  
Consulship.  
D. Hal. B.  
10. p. 656.

baffled, though in office five years successively, they judged, that it was for want of a sufficient number in their college, and therefore resolved to seize the present occasion to get it augmented. “On one condition,” said they; “we shall consent to your raising troops. The thing will be of little consequence to you, and will please the commons very much; perhaps make them easy as to all their other demands. Allow them to have, for the future, TEN tribunes, instead of only five.”

In the debates of the senate on this motion, Caius Claudius opposed it with great warmth. He said, “that to grant the commons more tribunes would have no good effect upon them, it would only make them more untractable and insolent. The partition of the lands, Terentius’s bill, and every project for diminishing the authority of the senate, and increasing the power of the people, would presently be revived: and in short, that an augmentation of the number of tribunes would have the worst consequences imaginable.” But Quinctius Cincinnatus, whose judgment had greater weight with the senate than that of Claudius, considered the matter in a different light, and was of opinion that what the plebeians sued for as a favour, would turn to their disadvantage when obtained, because it would be easier to sow division among ten tribunes than among five, and he therefore exhorted the fathers to a concession. His advice prevailed. The request was granted, but conditionally,



that the tribunes<sup>6</sup> then in office should not be rechosen. To this the petitioners agreed, and held the *comitia* immediately for the nomination of ten tribunes, as having learnt by experience, that they might meet with a disappointment, should they put off the election to the end of the war. Two out of each of the five first classes were chosen; a method observed ever after.

The commotion thus quieted, troops were raised. Minucius marched to attack the Sabines, but found no enemy in the field. Horatius defeated the *Æqui*, and retook Corbio.

<sup>6</sup> Livy's words seem to make the condition general, that the commons should never, for the future, choose the same men twice to the tribuneship, *ne postea eosdem tribunos juberent*. If this was the condition, the people did not observe it, as we shall presently see.

The increase of the number of tribunes to ten, was thirty-six years after the erection of the tribuneship.

Year of  
R O M E  
CCXCVI.  
Bef. J. C.  
Four hundred fifty-six.

Fifty-third  
Consulship.  
D. Hal. B.  
10. p. 657.

Ibid.  
Livy, B. 3.  
c. 30.

## CHAP. XXV.

I. The tribunes make a new demand in favour of the people; and the senate, after some struggle, comply. II. The consuls, by an imprudent severity in levying soldiers, give occasion to an unprecedented insult upon their dignity from the tribunes. III. The Agrarian and Terentian laws are proposed anew. Sicinius Dentatus, an old soldier, makes a notable speech in relation to the former. The patricians, by violence, hinder the suffrages from being collected. IV. The consuls lead an army into the field against the *Æqui*. They order Sicinius Dentatus, at the head of eight hundred veterans, upon a desperate enterprise. He remonstrates against it, but obeys, and succeeds so well, as to occasion

*the total defeat of the enemy by the consuls. At his return to Rome, he prevails with the people to refuse them a triumph; and they are condemned the next year, in a fine, for misconduct.*

Year of  
R O M E  
CCXCVII.  
Bef. J. C.  
Four hun-  
dred fifty-  
five.

Fifty-  
fourth  
Consulship.

D. Hal. B.  
10. p. 658.

I. IN the consulship of M. Valerius and Sp. Virginius, the tribunes demanded that Mount Aventine should be granted to the people, or at least those parts of it which were not occupied by lawful purchasers. L. Icilius, the head of the college, set forth that the land of that hill belonged to the republic; that some patricians had indeed purchased certain parcels of it, but others had got possession of what they enjoyed by mere usurpation, and that the remaining part of it was uncultivated and uninhabited. He proposed therefore, that those patricians, who could show good claims to what they possessed, should be confirmed in their possessions; but that those, who had built houses upon the hill, without lawful title to the ground, should be outed, previously reimbursed however what they had expended in building those houses; and lastly, that all the land uncultivated, or unoccupied by rightful owners, should be given gratis to the commons, who growing daily more numerous began to want habitations.

There could be no plausible objection to this proposal, and it was a matter of small importance to the nobles; yet the consuls, apprehending, perhaps, that from such a partition of Mount Aventine, the plebeians might take occasion to renew their old pretensions upon the conquered lands, deferred convening the fathers, whom the tribunes had desired to

consider of the matter, and then refer it to the people. Icilius, impatient of this delay, sent a command to the consuls by an apparitor, to assemble the senate forthwith. The apparitor met with a rough reception. A lictor by the consul's orders gave him some blows, and drove him away ignominiously. A mighty uproar ensued. Icilius caused the lictor to be seized, and was for having him thrown headlong from the Tarpeian rock. The consuls, not daring to employ violence to rescue him out of the hands of the sacrosanct tribunes, endeavoured to gain oversome one of them, who might put a stop to the fury of his colleague: but Icilius had before taken measures to defeat that artifice. He had so warmly represented to his brethren, that the strength of their college lay wholly in their union, that they had agreed, no one among them should oppose what was determined by plurality of voices. Thus the poor lictor saw himself just upon the point of losing his life, for having obeyed the orders of the consuls too punctually. To save him, the conscript fathers had recourse to entreaties; and they seem to have been constrained to a composition with the tribunes: these released the lictor, and the senate, by a decree, yielded Mount Aventine to the people; a concession of small importance, as was before observed; yet the measures used to obtain it made a very great breach in the consular authority: for the tribunes kept themselves ever after in possession of the new prerogative,

Year of  
R O M E  
CCXCVII.  
Bef. J. C.  
Four hundred fifty-five.  
Fifty-fourth Consulship.  
D. Hal. R. 10. p. 655.



Year of  
R O M E  
CCXCVIII  
Bef. J. C.  
Four hun-  
dred fifty-  
four.

Fifty-fifth  
Consulship.  
D. Hal. B.  
10. p. 660.

assumed by Icilius and his colleagues, of convening the senate.

II. THE next year T. Romilius and C. Veturius were consuls. These magistrates, apprehending that the present quiet in the city would soon be disturbed unless the republic had a war abroad, resolved to lead out an army against the Æqui.<sup>1</sup> But this their policy they themselves defeated, by the unseasonable rigour with which they proceeded in the enrollments. They admitted of no excuses, how allowable soever, and condemned to heavy fines and imprisonment all those who refused to enlist themselves for the war. Icilius and his colleagues (who had been continued in the tribuneship at the new elections) did not fail to take the part of the complainants, and when they found that words were ineffectual, endeavoured by force to rescue the prisoners out of the hands of the lictors; they even went so far in their fury as to bid the ædiles lay hold on the consuls, and lead them to prison. The patricians all united as one man to defend the supreme magistrates; blows ensued; and, for this time, the consuls got the better in the scuffle: the tribunes were routed, and roughly treated. But the triumph of the nobles was of short duration. The next day, and the

<sup>1</sup> According to Livy, B. 2. c. 31. it was to succour those affectionate friends of Rome, the Tusculans (whose territory the Æqui had invaded), that the consuls began to raise an army. And this accounts for the tribunes not opposing the levies, but only the unreasonable severity of the consuls in making them.

following, great numbers of plebeians flocked from the country to the city; and the tribunes, then finding themselves in a condition to deal with their adversaries, held frequent councils, to which they complained most heavily of the insults they had suffered; protesting at the same time, that they would lay down their office, if they could not be supported in the exercise of it. And now, encouraged by the commons, who with great warmth entered into their magistrates' resentments, they made no scruple to send a summons to the consuls to appear before an assembly of the people, and answer for their conduct; the first instance of citing the superior magistrates to trial, during their magistracy.

The consuls refusing to listen to the summons, away went the tribunes to the senate, then sitting in debate on these matters, and having first in a plaintive tone set forth "the violence which had been done to their sacred persons, by the consuls or their adherents," demanded peremptorily, "that those magistrates might either clear themselves by oath from having had any hand in that violence, or if they scrupled to take such oath, appear in judgment before the people;" and they added, "that, for their parts, they would take the votes of the tribes upon the affair."

In answer to all this, the consuls reproached the tribunes with having been the aggressors, "and with having carried their insolence to such excess, as first to attempt imprisoning the sovereign magistrates of the state, and af-

Year of  
R O M E  
CCXCVIII  
Bef. J. C.  
Four hundred fifty-four.

Fifty-fifth  
Consulship.  
1 6 H 3  
000 3 01

Year of  
R O M E  
CCXCVIII  
Bef. J. C.  
Four hun-  
dred fifty-  
four.

Fifty-fifth  
Consulship.  
D. Hal. B.  
10. p. 661:

terwards, when they failed in that, to cite them to appear in judgment before an assembly of the people; though by law they had no right to summon thither even the most inconsiderable of the patricians, without a previous *senatus-consultum* for that purpose." And they declared, "that if the tribunes were so audacious as to proceed towards collecting the votes of the people, they would arm the whole body of the patricians."

These mutual reproaches and menaces lasted the whole day; and the senate thinking it equally dangerous to declare either for the consuls or the tribunes, came to no resolution.

III. THE tribunes, finding that nothing was to be expected from the fathers, called the people together, to deliberate on the proper measures to be taken.

The most turbulent and hot-headed were for retiring in arms a second time to the Mons Sacer, and thence declaring open war against the patricians, for having broken the treaty which had there been made.

Others, more in number, judged it not advisable to leave the city, nor equitable to impute to the whole body of the nobles the violences which some particulars had acted against the sacred persons of the tribunes; provided that strict justice were done upon the guilty, who had incurred the penalty of death or exile, [and might be punished according to law, without any previous process.]

Others, again, more moderate, declared against putting any citizen to death, before



trial and condemnation in legal form, and especially when the question was concerning the consuls, the supreme magistrates of the republic; but they counselled the assembly to discharge their wrath on those who had aided the consuls, and to punish them according to the utmost rigour of the laws.

As nothing could be immediately agreed upon, a little time diminished the fury of the tribunes, and at length the conclusion was, that the third market-day, they would hold an assembly to condemn the consuls in a pecuniary fine. However, before the twenty-seven days were quite expired, they changed their mind; and having assembled the people, declared, that at the entreaty of several worthy men, to whom it was not easy to refuse any thing, they were willing to forgive the personal injuries they themselves had suffered, but could never pardon those which had been done to the people, and would therefore instantly renew the prosecution of those two important affairs, the Agrarian and Terentian laws, the publication of which had been so long postponed by the artifices of the patricians. This said, they fixed a day for a new assembly to deliberate and decide upon those matters.

The people being met at the time appointed, Icilius began with proposing the Agrarian law; and, when he had himself made a long harangue on the reasonableness of it, notified that any plebeian present might speak his mind freely. Upon this several stood forth successively, pleaded the right their services

Year of  
R O M E  
CCXCVIII.  
Bet. J C.  
Four hun-  
dred fifty-  
four.

Fifty-fifth  
Consulship.

D. Hal. B.  
10. p. 662.

Year of  
R O M E  
CCXCVIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
four.

Fifty-fifth  
Consulship.

\* Siccus,  
according  
to Livy.

gave them to a share of the conquered lands, and were all heard with pleasure. But nothing so much quickened the zeal of the assembly in behalf of the law, as the discourse of Siccinius\* Dentatus, a plebeian, who had served long, and distinguished himself by his exploits in the wars. He was a man of a noble aspect, and, though now fifty-eight years of age, in his full strength of body as well as mind. With a soldierly eloquence he spoke to this effect: "It is now forty years that I have borne arms, and for the thirty last I have been always in some command or other. I have been in an hundred and twenty engagements. I have received forty-five wounds, and all before, twelve of them in that single action against Herdonius, the Sabine. Fourteen<sup>2</sup> civic crowns

<sup>2</sup> Of the military rewards in use among the Romans, Mr. Kennet [Part 2. Book 4. Chap. 16] speaks thus:

The encouragements of valour and industry were much more considerable than the proceedings against the contrary vices. The most considerable (not to speak of the promotion from one station to another, nor of the occasional donatives in money, distinguished by this name from the largesses bestowed on the common people, and termed *congiaria*) were first the *dona imperatoria*, such as

The *hasta pura*, a fine spear of wood without any iron on it; such a one as Virgil has given Sylvius in the sixth of the *Æneids*:

*Ille, vides? purâ juvenis qui nititur hastâ.*

This present was usually bestowed on him, who in some little skirmish had killed an enemy, engaging him hand to hand. They were reckoned very honourable gifts, and the gods are commonly represented with such spears, on the old coins. Mr. Walker derives hence the custom of our great officers carrying white rods or staves, as ensigns of their places.

I obtained for having saved the lives of so many citizens in battle; three mural crowns for having been the first that mounted the breach in towns taken by assault; one obsi-

Year of  
R O M E  
CCXCVIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
four.

The *armillæ*, a sort of bracelets, given upon account of some eminent service, only to such as were born Romans.

The *torques*, golden and silver collars, wreathed with curious art and beauty. Pliny attributes the golden collars to the auxiliaries, and the silver to the Roman soldiers; but this is supposed to be a mistake.

The *phaleræ*, commonly thought to be a suit of rich trappings for a horse; but because we find them bestowed on the foot, as well as the cavalry, we may rather suppose them to have been golden chains, of like nature with the *torques*, only that they seem to have hung down to the breast; whereas the others only went round the neck. The hopes of these two last are particularly urged, among the advantages of a military life by Juvenal, Sat. xvi. 60.

Fifty-fifth  
Consulship.

*Ut læti phaleris omnes, & torquibus omnes.*

The  *vexilla* , a sort of banners of different colours, worked in silk or other curious materials, such as Augustus bestowed on Agrippa, after he had won the sea-fight at Actium.

Next to these were the several coronets received on various occasions. As,

*Corona civica*, given to any soldier who had saved the life of a Roman citizen in an engagement. This was reckoned more honourable than any other crown, though composed of no better materials than oaken boughs. Virgil calls it *civilis quercus*, Æn. vi. 772.

*Atque umbrata gerunt civili tempora quercu.*

Plutarch has guessed very happily at the reason why the branches of this tree should be made use of before all others. For the oaken wreath, says he, being otherwise sacred to Jupiter, the great guardian of their city, they might therefore think it the most proper ornament for him who had preserved a citizen. Besides, the oak may very well claim the preference in this case, because in the primitive times,



Year of  
R. O. M. E.  
CCXCVIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
four.

Fift, fifth  
Consulship.

dional crown; eight other crowns for different exploits; eighty-three golden collars, sixty golden bracelets, eighteen lances, (*hastæ puræ*) twenty-five sets of furniture for horses, nine of

that tree alone was thought almost sufficient for the preserving of man's life: its acorns were the principal diet of the old mortals, and the honey which was commonly found there, presented them with a very pleasant liquor\*.

It was a particular honour conferred on the persons who had merited this crown, that when they came to any of the public shows, the whole company, as well senate as people, should signify their respect, by rising up when they saw them enter; and that they should take their seat on these occasions among the senators; being also excused from all troublesome duties and services in their own persons, and procuring the same immunity for their father and grandfather by his side†.

*Corona muralis*, given to him who first scaled the walls of a city in a general assault; and therefore, in the shape of it, there was some allusion made to the figure of a wall.

*Corona castrensis*, or *vallaris*, the reward of him who had first forced the enemies' intrenchments.

*Corona navalis*, bestowed on such as had signalized their valour in an engagement at sea; being set round with figures like the beaks of ships.

— *Cui belli insigne superbum*

*Tempora navali fulgent rostrata coronâ.*

Virg. *Æn.* viii. 634.

Lipsius fancies the *corona navalis*, and the *rostrata*, to have been two distinct species, though they are generally believed to be the same kind of crown.

*Corona obsidionalis*: this was not, like the rest, given by the general to the soldiers, but presented by the common consent of the soldiers to the general, when he had delivered the Romans or their allies from a siege. It was composed of the grass growing in the besieged places.

\* Vide Plutarch, in Coriolano. † Vide Plin. lib. 16. cap. 4.

which I won from so many enemies conquered in single combat.—And now, Romans, you know my services, and you have heard what have been the rewards of them, rewards that sufficiently prove my courage, but make little addition to my fortune. No land, no share in the conquered countries. Neither Sicinius, nor any of you, plebeians, the companions of my labours and my glory, are to reap the least benefit from those acquisitions. The patri- cians, it seems, by their noble birth, have an inherent right to all the public demesnes. No matter whether they have any merit or not. But is this to be endured? Shall they alone enjoy the fruits of our conquests? The purchase of our blood? No, plebeians, let us delay no longer to do ourselves justice. Without so much as hearing what the usurpers have to say against it, let us this very day pass the

Year of  
R O M E  
CCXCVIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
four.

Fifty-fifth  
Consulship.

*Corona triumphalis*, made with wreaths of laurel, and proper only to such generals as had the honour of a triumph. In after-ages this was changed for gold\*, and not only restrained to those that actually triumphed, but presented on several other accounts, as commonly by the foreign states and provinces to their patrons and benefactors. Several of the other crowns too are thought to have been of gold, as the *castrensis*, the mural, and the naval.

Besides these, we meet with the *coronæ aureæ*, often bestowed on soldiers without any other additional term. And Dion Cassius mentions a particular sort of coronet made of olive boughs, and bestowed, like the rest, in consideration of some signal act of valour. Lipsius believes these to have succeeded in the room of the golden crowns, after they were laid aside.

\* *Aurum Coronarium.*

Year of  
R O M E  
CCXCVIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
four.

Fifty-fifth  
Consulship.

law proposed by Icilius. If the young patri-  
cians have the boldness to oppose by violence  
the collecting of the votes, let our tribunes  
make them feel what is the extent of their  
authority."

Sicinius having thus closed, Icilius highly  
commended both the speaker and his speech,  
yet added, that in one thing he must differ  
from him; for that the people could neither  
in justice nor in prudence refuse to hear what  
the patricians had to say against the law; and  
so he adjourned the assembly to the day fol-  
lowing.

D. Hal. B.  
10. p. 666.

IV. THE consuls during great part of the  
night held conference with the chief men of  
the senate, on measures to frustrate the designs  
of the tribunes. No expedient offered itself,  
but the old method; which was, forcibly to  
hinder the people from proceeding to vote.

The next morning, the assembly being  
formed, the tribunes caused proclamation to  
be made, that whoever had any solid reasons  
to offer against the law, might, if they pleased,  
lay them before the people. Divers senators  
presented themselves one after another; but  
the moment they began to speak, such a noise  
arose from all parts of the *comitium*, some ap-  
plauding, others hooting, as made it impossi-  
ble to hear what was said. The consuls, full  
of indignation, protested warmly against all  
that should be done in so tumultuous an as-  
sembly: to which the tribunes answered, that  
it was no wonder the people should be tired  
with hearing the same trite and frivolous ob-



jections so often repeated. When a great part of the day had been spent in such alterations, the multitude, quite weary of them, called out, to the vote. In that instant the patricians, who, in small companies, had posted themselves in almost all parts of the *comitium*, fell all at once upon the plebeians, and by blows and main force hindered them from gathering into their respective tribes. The tribunes exclaim, break through the press, hasten to assist the plebeians, and rectify the disorder. Vain are their efforts; their own sacred persons are suffered safely to pass whithersoever they please; but, their followers being stopped by the patricians, they can do nothing, their measures are disconcerted, they are forced to retire.

They convened the people again the next day, and made their complaints. Most of the young patricians had been concerned in raising the tumult; but as it was impracticable to punish all the guilty, only the youth of the Posthumian, Sempronian, and Clelian families were singled out for prosecution; and cited to appear before an assembly of the people.

The best heads in the senate having consulted together on this occasion, and knowing that the tribunes had determined to inflict no severer punishment on the criminals than the confiscation of their effects, thought it advisable to acquiesce, not only because they could easily repair the loss to the sufferers, but because they hoped that the multitude, satisfied with this revenge, would drop their pursuit of

Year of  
R. O M E  
CCXCVIII  
Bef. J. C.  
Four hundred  
fifty  
four.  
Fifty-fifth  
Consulship.

D. Hal. B.  
10. p. 667.

D. Hal. B.  
10. p. 667.

Year of  
R. O. M. E.  
CCXCIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
four.  
Fifty-fifth  
Consulship.

D. Hal. B.  
10. p. 668.

the law. When the day came for the trial, the persons accused not appearing, were condemned for default; their goods were afterwards sold publicly; and the produce consecrated to Ceres. The senate caused those goods to be bought up with their money by private hands, and shortly after restored them to the former proprietors.

V. It was not very long before the tribunes brought on again the affair of the law for a partition of the lands. But their proceedings were now interrupted by sudden advice, that the Æqui had invaded the territory of Tusculum, and threatened the town. The senate without delay ordered an army to the relief of those dear allies, the Tusculans; nor could the tribunes divert the plebeians from offering themselves to serve in this war. Even Sicinius Dentatus, that zealous advocate for the Agrarian law, presented himself a volunteer with eight hundred veterans, who, like himself, had completed the years of service prescribed by law, but yet were willing to make another campaign under the particular command of Sicinius, to whom they had, most of them, personal obligations.

The army marched from Rome, and advanced towards the Algidus, the usual haunt

According to Dionysius, the scene of action was near the city of Antium. But there is, probably an error in the copy; it should be the city of Algidum, which stood upon Mount Algidus. Livy says, the Æqui were posted on the Algidus; and this was in the neighbourhood of the Tusculans.



of the Æqui, and, whither they had retired on the news of the consul's approach. These generals, having found the enemy intrenched on the hill, pitched their camp not far from them, fortified it well, and kept close within it, to conceal their strength, which was very considerable. The Æqui took these precautions for a sign of fear, and imagining the number of the Romans to be small, made several attempts to bring them to an engagement. One day when Romilius commanded in chief, and the Æqui descending from their hill offered him battle, he resolved to accept the challenge. With this view he sent for Sicinius Dentatus, and said to him, "My colleague and I intend to march against the enemy in the plain, and in the meantime I would have you, with the cohort under your command, ascend by yon narrow winding way to the top of the hill, and attack their intrenchments. They have undoubtedly left but a weak garrison there, and your brave veterans will easily make themselves masters of the camp. If the Æqui here below, to preserve it, quit the plain, we shall then fall upon their rear, and their destruction will be inevitable." Sicinius answered, "I am always ready to obey orders. But give me leave to say, that the execution of what you now command is not so easy as you seem to imagine it. The hill is very high and steep, and I see but one way up to it. We shall no sooner be engaged in that narrow pass, but the enemy will infallibly pour down upon us; and how shall I be able, with my body of

Year of  
R O M E  
CCXCVIII  
Bef. J. C.  
Four hundred  
fifty four.  
Fifty-fifth  
Consulship.  
D. Hal. B.  
10. p. 669.

D. Hal. B.  
10. p. 669.



Year of  
R O M E  
CCXCVIII.  
Bef. J. C.  
Four hun-  
dred fifty-  
four.

Fifty-fifth  
Consulship.

D. Hal. B.  
10. p. 670.

veterans alone, to sustain their charge from the higher ground? You are willing to suppose that the guard of the camp is weak. There is no probability of this; and, even granting it certain, their very situation alone gives them such an advantage over us, that we shall never be able to force them."

Sicinius was going on with his remonstrance, when the consul in great anger cut him short; bidding him not pretend to act the general, but remember his only business was to obey. He added, "But if you think there is too much danger in the enterprise, I shall employ some other officer, who, less conceited of his own abilities, may succeed better. And you, mighty captain, you that have followed the wars forty years, that have been in an hundred and twenty battles, and whose whole body is covered over with wounds, do you return to Rome without having dared to face the enemy, and carry back to the Forum that eloquent tongue, which is more formidable to your fellow-citizens, than your sword is to the Æqui, and the enemies of your country?"

Sicinius, irritated by the general's reproaches, answered him boldly, that he found he was resolved either to destroy an old soldier, or to shame him, and for no other reason but his honest zeal for the public liberty; but that one was much easier to do than the other; that he would march up to the enemy's camp, and win it, or fall in the attempt with all his cohort. These veterans then took their leave of the rest of the soldiers, who looked after

them with weeping eyes; as after men sent to the slaughter. Happily for them they were under the conduct of an old officer who understood his trade. Sicinius went round about a tedious way, and at length entered a great wood that seemed to stretch along the hills quite to the enemy's camp. Here, having halted a moment, "Cheer up, my lads; either I am much mistaken, or I shall find some path that will lead us more safely to the enemy's camp than that which our general pointed out, and by which we could not have approached it without being seen." He then continued his march, and soon after met with a peasant, who serving him for a guide, conducted him at length to an eminence that overlooked the camp, and was not far from it.

During this march the two armies came to an engagement in the plain. They fought a great while with equal courage, and victory did not declare for either side. The soldiers in the camp of the Æqui, not apprehending any danger from behind, were all got to the side next the plain to see the fight. In this juncture Sicinius arrived on the other side, and finding it without centinels, and quite defenceless, entered the camp at once. Then the veterans giving a loud shout fell upon the Æqui, whose eyes were turned another way. The sudden fright which seized the latter made them imagine their enemies to be much more numerous than they were; so that without staying to gather up their arms, all that could fled out of the camp, and ran precipitately

Year of  
R O M E  
CCXCVIII  
Bef. J. C. 8  
Four hundred fifty  
four. 1401  
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Fifty-fifth
Consulship.
D. Hal. B.
10. p. 671
10. 2. 01

Year of
R O M E
CCXCVIII.
Bef. J. C.
Four hun-
dred fifty-
four.

Fifty-fifth
Consulship.

D. Hal. B.
10. p. 671.

down to the main body of their army, carrying fear and confusion along with them. Sicinius followed them close, and came thundering upon the rear of that main body, engaged in battle with the Roman army. The Æqui, broken and put to flight, lost seven thousand men; the consuls not giving over the pursuit till night.

p. 672.

As soon as it was dark, and the action quite over, Sicinius retired with his veterans to the camp he had before taken. He had not lost one man, nor of the whole number was there one who had received a wound. With mutual embraces they congratulated each other on their good fortune, and all joined in heaping praises on their commander. About midnight Sicinius, full of resentment against the consuls, formed a resolution to hinder them, if possible, from having the honours of a triumph, at their return to Rome. His companions, to whom he imparted his design, having unanimously approved it, they cut the throats of the prisoners, killed the horses, set fire to the tents, the arms, and all the baggage, (including the rich plunder which the Æqui had got in the territory of Tusculum) leaving none of those marks of victory which were required from a general when he demanded the triumph. He then marched away with extreme diligence, arrived at Rome with his cohort, and there gave an account to the people of what had passed, complaining of the inhumanity of the consuls, who, he said, had maliciously exposed eight hundred veterans to death, in all likelihood,

unavoidable, and claiming the whole honour of the victory to himself and his cohort. Not only the people, but the senate entered with warmth into his resentments, and absolutely refused the consuls a triumph at their return⁴.

Year of
R. O. M. E.
605. III.
Bef. J. C.
Four hundred
fifty-four.

⁴ The reader will give what credit he pleases to this account from Dionysius, of what passed in the consulship of Romilius and Veturius. Livy makes no mention of the disputes about the Agrarian law, or Sicinius's notable speech, or of the decree against the three patricians, or of Sicinius's exploit in the war against the Æqui. All that the Latin historian says of the events of this year is to the following effect: that the ten tribunes revived the affair of the bill [for an establishment of laws.] That their pursuit of it was interrupted by news from the Tusculans, of the Æqui having invaded their territory: that the Romans could not refuse assistance to such affectionate allies: that the consuls defeated the enemy in battle near the Algidus, slew seven thousand of them, and got a great booty, which they sold, because money was wanting in the treasury: that this angered the soldiers, and furnished the tribunes with matter for accusing the consuls. Liv.

Fifty-fifth
Consulship.

B. 3. c. 31.
FATHER Rouillé observes, that the learned, and Glarean in particular, have charged Livy with a faulty negligence, in passing over the dispute about the AGRARIAN law, Sicinius's speech, and the condemnation of the three families.

As to the Agrarian law, it seems not improbable that the tribunes at this time brought it again into agitation in order to terrify the nobles, and thereby facilitate the passing of Terentius's bill concerning laws. And perhaps it was this alarm which occasioned the senate's so readily consenting presently after to let Terentius's proposal take place as to the substance of it. For this sudden compliance is not well accounted for by the historians. There seems to have been a compromise. Cease your pursuit of the partition of the lands, and you shall have a body of laws established.

For as to Sicinius's speech, the writers who are most fond of it, do themselves, by their disagreement, furnish

Year of
R O M E
CCXCIX.
Bef. J. C.
Four hun-
dred fifty-
three.

Fifty-sixth
Consulship.

D. Hal. B.
10. p. 673.

And they had no sooner resigned the fasces (to Sp. Tarpeius and A. Æternius) but they were cited to appear before an assembly of the people on a day fixed. Sicinius (whom the people had raised to the tribuneship) charged Romilius; one of the Ædiles charged Veturius. The accusations⁵ ran upon certain insults,

reasons to doubt. Dionysius, as we have seen, gives this hero twenty-five sets of furniture, for so many victories in single combats, Pliny, B. 7. Val. Max. B. 3. and Solinus, c. 6. allow him only eight. But then to make him amends, (as Father Rouillé observes) Val. Max. gives him one hundred and eighty collars instead of only eighty-eight, and Pliny above one hundred and sixty bracelets instead of only sixty.

THE reason why Livy says nothing of Sicinius's exploit in the war, which Veturius and Romilius conducted against the Æqui, is evident: he did not believe one word of it. What he relates is contradictory to Dionysius's account. For, according to the Latine historian, the consuls sold all the plenteous spoil of the enemy, and sent the produce to the treasury; whereas, according to the Greek historian, Sicinius burnt and destroyed every thing, to the end that the consuls, having no marks of victory to shew, might be refused a triumph.

If one considers the singular negligence of the consuls after the victory, with regard to the enemy's camp, which contained such a rich booty; the monstrous breaches of discipline imputed to that old soldier Sicinius; the injustice which, in burning the spoil, he is guilty of towards the consuls' troops, who expected to share it among them, and with whom he was in terms of affection; and, lastly, the senate's approving all this conduct, and taking part with him against the consuls: I say, if one considers these things, it may incline one to believe, that Dionysius borrowed his account from some memoirs as authentic as the history of Guy Earl of Warwick.

⁵ When Livy (B. 3. c. 31.) tells us, that the consuls by selling the booty for the use of the treasury [instead of giving it to the soldiers] furnished the tribunes with mat-

which, during their consulship, they had offered to the tribunes; and upon the affair of Sicinius and his veterans; and the people fined them both, Romilius in ten thousand asses, and Veturius, in fifteen thousand. History does not inform us of the reason of the difference which the people made in their fines: it was perhaps because Veturius had the greater hand in the ill treatment of Icilius's apparitor. What favours this conjecture is, that at the same time a law passed, with the consent of both orders in the state, that any magistrate should have power to lay fines upon such persons as failed of due respect to his dignity: a prerogative reserved before to the consuls only. But to prevent any particular magistrate from abusing and stretching his authority in this point, it was provided by the same law, that the highest fines for such offences should never exceed the value of two oxen and thirty sheep.

ter for accusing them to the plebeians, he probably means no more, but that the tribunes took advantage of the anger which this proceeding raised in the minds of the soldiers, to forward a prosecution of the consuls on another accusation, namely, their violences in the dispute about the law.

CHAP. XXVI.

I. The senate and people agree to send deputies to Athens to copy out the laws of Solon and of the other lawgivers of Greece, in order to form thereby a body of Roman laws.

II. In the consulate of P. Sestius and T. Menenius, the deputies return from Greece. The people press the nomination of ten commissioners or decemvirs, who are to compile the new laws. The consuls, to avoid proceeding in this

Year of
R O M E
CCXCIX
Bef. J. C.
Four hundred fifty
three.

Fifty-sixth
Consulship,
Vertot.
D. Hal. B.
10. p. 674.

affair, have recourse to various pretences. It is carried in the senate by a majority, to create decemvirs; and the tribunes, after some struggle, consent to let them be all patricians. III. The election is made in comitia by centuries. The decemvirs compose TEN TABLES OF LAWS, which are approved by the whole Roman people.

Year of
R. O. M. E.
CCXCIX.
Bef. J. C.
Four hundred
fifty-three.

Fifty-sixth
Consulship.

D. Hal. B.
10. p. 674,
675.

I. THE law before mentioned, concerning fines for disrespect to magistrates, had (according to Dionysius) been proposed by the present consuls, Tarpeius and Æternius, to make their court to the people. For these consuls¹ were terrified by the ill treatment of their predecessors, whose cause the senate had but weakly defended, after giving them encouragement to hope an effectual protection. And by the same terror they were induced to side with the tribunes in the project for an establishment of laws, and move it in the senate. The house was now divided in opinion, and to the great surprise of every body, Romilius, whom the people had so lately fined, declared

¹ Livy, on the contrary, represents Tarpeius and Æternius as not intimidated in the least, by the misfortune of their predecessors, but boldly saying, the commons and their tribunes may fine us likewise, if they please, yet they shall not prevail to get their bill passed: that the tribunes, then dropping their bill, and assuming a milder manner than hitherto, desired of the fathers, "that they would put an end to contention, and if plebeian laws were disagreeable to them, would at least suffer legislators to be created, partly out of the nobles, partly out of the commons, for establishing laws of equality in point of liberty:" that the senate expressed no dislike to the substance of the proposal, and objected only to the admission of plebeians into the number of the legislators: and that, after some struggle, the tribunes yielded this point. Liv. B. 3. c. 31.

for granting to the people the laws they so much desired. He assigned for the reason of his change the experienced want of resolution in the senate, to support the consuls in their opposition to the tribunes. And as to forming a body of laws, he advised the fathers to send deputies into Greece who should copy the celebrated laws of Solon at Athens, and likewise inform themselves of the laws and customs of the other Grecian states; after whose return the consuls and senate should appoint commissioners to make choice of such of the Grecian laws as were most suitable to the present constitution of the Roman republic.

This advice of Romilius both prevailed in the senate, and pleased the people. Sicinius, his late enemy, protested that for the future he should ever be his friend. Nay he went further, and in the name of the people remitted him the fine he had been condemned to pay. But as the money had been consecrated to Ceres, Romilius rejected this favour, as thinking he could not accept it without sacrilege.

A decree conformable to Romilius's proposal being passed by the senate, and confirmed by the people, Sp. Posthumius, A. Manlius, and S. Sulpitius were soon after commissioned and sent away to make the collection of Grecian laws. No foreign enemies disturbed the state this year. Nor in the following consulship of P. Horatius and Sextus Quintilius, was there either war abroad, or contention at home: but the plague afflicted almost all Italy. The consul Quintilius, four tribunes of the

Year of
R O M
CCXCIX.
Bef. J. C.
Four hundred
fifty-three.

Fifty-sixth
Consulship.

D. Hal. B.
10. p. 676.

Bef. J. C.
Four hundred
fifty-three.

Fifty-sixth
Consulship.

D. Hal. B.
10. p. 676.

Year of
R O M E
CCC.
Bef. J. C.
Four hun-
dred fifty-
two.

Fifty-se-
venth Con-
sulship.

D. Hal. B.
10. p. 677.

Year of
R O M E
CCCL.
Bef. J. C.
Four hun-
dred fifty-
one.

Fifty-eighth
Consulship.

Livy, B. 33.
c. 32, 33.
D. Hal. B.
10. p. 678,
679.

people, and great numbers of citizens of all ranks and conditions died of it. The people, to avoid it, dispersed themselves about the country. Rome in this general desolation became a desert, and some surprise was to be feared from the Æqui, the Volsci, and the Sabines. But the pestilence raging among them too with the same fury, their calamity served instead of strength and defence to the republic.

II. THE next year, in the consulship of P. Sestius and T. Menenius, the plague ceased: and the ambassadors, who had been sent into Greece, returned to Rome. Presently the tribunes became very urgent for a nomination of legislators to enter on the great work. The consuls, unwilling to have their magistracy the epoch of an innovation so disadvantageous to the nobles, put off the business under various pretences. At first they alleged in excuse of the delay, that the affair in question being to be settled in the consulship of their successors, nothing ought to be done in it, till those successors were appointed, nor indeed without their participation. To this the tribunes made no objection; but it is probable, that their impatience hastened the meeting of the centuries; for these were assembled before the usual time. They named Appius Claudius (grandson of the first of that name) and T. Genucius to the consulship. After this election, Menenius, to get rid of the importunity of the tribunes, pretended sickness, and staid at home. And as for Sestius, he excused himself by saying, that it would not be

decent for him to act in so great an affair, without his colleague; and he referred them to the consuls elect. To these the tribunes applied themselves, and by much solicitation and fine promises entirely gained them. Appius, in an assembly of the people, to which he went at the desire of the tribunes, made a speech upon the reasonableness of establishing laws equally favourable to all; an establishment which, he said, would put an end to the contention between the two parties, and make Rome, which had been so long divided, as it were, into two states, become one commonwealth. He added, that if the election of himself and his colleague to the consulship should be offered by any person as an objection to the immediate appointment of legislators, they were both ready (provided the senate approved it) to relinquish their pretensions to that dignity.

When the people had first bestowed the highest praise on those two patricians for their disinterested virtue, they ran in crowds to the senate-house. Minucius being still sick, or pretending to be so, Sestius alone (whom perhaps the tribunes had gained by a promise to make him one of the legislators) convened the fathers, and proposed the business. After some opposition from the warm advocates for all old customs, the opinion of the consuls elect prevailed; and, at the motion of Appius, it was agreed, that ten persons, to be chosen out of the body of the senate, should for one year, commencing from the day of their nomination,

Year of
R O M E
CCCL
Ref. J. C.
Four hundred fifty-one.
Fifty-eighth
Consulship.

D. Hal. B.
10. p. 679.

Year of
R O M E
CCCI.
Bef. J. C.
Four hun-
dred fifty-
one.

~~~~~  
Fifty-eighth  
Consulship.  
Livy, B. 3.  
c. 32.

be invested, for the government of the state, with an authority from which there should lie no appeal; and that the consular, the tribunitian<sup>2</sup>, and all the other magistracies should be suppressed during that space of time.

These decemvirs were to draw up a body of laws extracted from those of Greece, and then communicate the work to the senate and people for their approbation and confirmation.

The tribunes contended a while for the admission of some plebeians into the number of the legislators, but at length yielded this point, on condition that the decemvirs should not abrogate the Icilian law [relating to Mount Aventine] nor the laws regarding the functions and privileges of the tribunes.

Ibid.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

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Fifty-ninth
Consulship.
D. Hal. B.
10. p. 680.
Livy, B. 3.
c. 33.

III. SHORTLY after, a solemn assembly was held of the whole Roman people convened by centuries, and when the auspices had been taken, and the other ceremonies of religion performed, they proceeded to the election of the decemvirs. Appius Claudius and T. Genucius were the first named; it was thought they deserved this honourable preference for the generous abdication they made of the consulship: then L. Sestius, the consul who had brought this matter before the senate against his colleague's will: Sp. Posthumius, S. Sulpi-

² This is the first instance of suspending the tribuneship. The functions of the tribunes had hitherto been always preserved, even under the dictators, and when all other magistracies ceased. The reason was, that the tribunes were not properly magistrates, but only protectors of the people against any oppressions by the magistrates. *Plut. Quæst. Rom.* p. 283.

tius; and A. Manlius, the three deputies who had been sent into Greece; T. Romilius, who had proposed that deputation; and to these were added C. Julius, T. Veturius, and P. Horatius, all consulars, and men of distinction, but too old, as some say, to oppose with resolution the sentiments of their colleagues. Appius, by the favour he had acquired with the people, had the modelling of this magistracy.

The DECEMVIRS agreed among themselves that only one of them at a time should have the fasces, assemble the senate, confirm decrees, and act in all respects as supreme magistrate. To this honour they were to succeed by turns, each enjoying it one whole day, and then resigning it to another; and while one had the badges of sovereign power, the other nine differed not, in their appearance, from private persons, excepting that each of them was attended by an officer called Accensus, who walked before him.

They repaired every morning, each in his turn, to their tribunal in the Forum, to dispense justice, which they did with so much impartiality, that the people, charmed with their conduct, seemed to have forgot their tribunes. Most of them prayed to the gods for the continuance of a government so full of moderation; nay, there were many plebeians, who declared that instead of restoring the consulate and tribunate, the best thing they could do, would be to find ways to make the decemvirate perpetual.

The people looked upon themselves as chiefly

Year of
R O M E
CCCII.
Bef. J. C.
Four hundred
fifty.

First Decemvirate.
Livy, B. 3.
c. 33.

Year of
R O M E
CCCII.
Bef. J. C.
Four hun-
dred fifty.

First De-
cemvirate.

indebted to Appius for the present felicity they enjoyed. And indeed by the good understanding he lived in with his colleague, and by his affable behaviour to the people, he acquired universally the reputation of superior merit. From being an austere patrician who crossed the plebeians in all their pretensions, he was changed to a very Poplicola: nobody so gracious and condescending as Appius: he could call the citizens he met by their names: he saluted even the meanest of the populace, giving them all assurances of his good will and concern for their interests.

D. Hal. B.
10. p. 681.
Livy, B. 3.
c. 34.

The decemvirs applied themselves diligently this whole year to their work, which, when completed, they exposed in TEN TABLES, fixed up in the Forum; and then with great modesty represented to the people assembled, “³ that they did not know they had omitted any thing necessary to the establishment of that equality which ought to be among the members of a free republic. That nevertheless they would have their fellow-citizens examine the performance carefully, and declare freely what they conceived ought to be retrenched or added; to the intent that the Roman people might for the future live under laws which they

³ It is said [Plin. B. 34. Cap. 5. Strabo, B. 14.] that the laws of Greece were explained to the decemvirs by one Hermodorus of Ephesus, who happened to be at Rome; and that Heraclitus, the friend of Hermodorus, wrote him a congratulatory letter on the share he had in drawing up the Roman laws, adding, that in a dream he had seen all the nations of the earth bowing down before these laws, and worshipping them in the Persian manner.

might be said to have proposed as well as enacted." The decemvirs for some time sat daily in the Forum to receive remonstrances; and whoever had any thing to object against the laws was readily heard. And when all necessary corrections and amendments had been made, and the people in general seemed to be well satisfied, the TEN TABLES were carried before the senate, and there approved by an express decree: soon after which, the decemvirs convened an assembly of the centuries, where the LAWS, being first read over, were confirmed by the unanimous voices of the whole ROMAN PEOPLE.

Year of
R O M E
CCCII.
Bef. J. C.
Four hundred fifty.
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First Decemvirate.  
D. Hal. B.  
10. p. 681.

## CHAP. XXVII.

*Fragments of the TEN TABLES of LAWS before mentioned, as they have been collected and digested by the learned Jesuits, Catrou and Rouillé, and also of the TWO TABLES of Laws soon after added to the TEN.*

## TABLE I.

## OF LAW-SUITS.

I. LAW. Go immediately with the person who cites you before the judge.

II. LAW. If the person you cite refuses to go with you before the judge, take some that are present to be witnesses of it, and you shall have a right to compel him to appear.

III. LAW. If the person cited endeavours to

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

escape from you, or puts himself into a posture of resistance, you may seize his body.

IV. LAW. If the person prosecuted be old, or infirm, let him be carried in a *jumentum*, or open carriage. But if he refuse that, the prosecutor shall not be obliged to provide him an *arcera*, or a covered carriage.

V. LAW. But if the person cited find a surety, let him go.

VI. LAW. Only a rich man shall be security for a rich man. But any security shall be sufficient for a poor man.

VII. LAW. The judge shall give judgment according to the agreement made between the two parties, by the way.

VIII. LAW. If the person cited has made no agreement with his adversary, let the prætor hear the cause from sun-rising till noon; and let both parties be present when it is heard, whether it be in the Forum, or *comitium*.

IX. LAW. Let the same prætor give judgment in the afternoon, though but one of the parties be present.

X. LAW. Let no judgments be given after the going down of the sun.

XI. LAW. When the parties have pitched upon a judge or arbitrator by consent, let them give securities that they will appear. Let him who does not appear in court pay the penalty agreed upon, unless he was hindered by some great fit of sickness, or by the performance of some vow, or by business of state, or by some indispensable engagement with a



foreigner. If any one of these impediments happen to the judge or arbitrator, or either of the parties, let the hearing be put off to another day.

XII. LAW. <sup>1</sup>Whoever shall not be able to

Year of  
R O M E  
CCCL. 2  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

The plaintiff was often disappointed of his demand upon the defendant, and the prosecution declared null, for want of witnesses. In order to remove this inconvenience, the decemviri made a law, which gave the person injured leave to go to the door of his house whom he intended to prosecute; to repeat the subject of his complaint with a loud voice; and even to have recourse to invectives if there was occasion: and to continue this for three market-days together, because the country people came then to Rome, about their business. Hence came the custom, which continues to this day, of sending three summons, before judgment is given by default. If after these repeated clamours the person cited still refused to make restitution, the plaintiff had a right to call those in the neighbourhood who heard him, as witnesses, and go in with them, even by force, into his adversary's house, and there seize his own goods wherever he found them. The law was thus expressed. CUI TESTIMONIUM DEFUERIT, IS TERTIIS DIEBUS, OBPORTUM, OBVAGULATUM ITO; that is to say, *ei qui testimoniis destituitur, liceat, tertiis nundinis, reum ante ædes, convitiis et clamoribus appetere*. According to Festus, *portus* had anciently the same signification as *domus* or *ædes*. The word *obvagulatum* is, says Festus, put for *quæstionem cum convitio*, i. e. a demand made with great outcries and invectives. In this sense the civilians interpret the verb *vagulo*, which they derive from the verb *vagio*.

Turneb. B. 2. advers. cap. 26. and Salmasius Observ. ad jus. Attic. et Ro. cap. 30. state this law in a different manner. Their interpretation of it is this: If the plaintiff cannot produce his witnesses, let him go to the house of him whose testimony he had a right to expect; and let him require him to bear witness for him with great cries, and with injurious reflections, if the witness obstinately persists in the refusing it.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

bring any witnesses to prove his pretensions before the judge, may go and make a clamour for three days together, before his adversary's house.

## TABLE II.

### OF ROBBERIES.

I. LAW. He that is attacked by a robber in the night, let him not be punished if he kills him.

II. LAW. If the robbery be committed by day, and if the robber be taken in the fact, let him be beaten with rods, and become the slave of him whom he robbed. If the robber be a slave already, let him be beaten with rods, and thrown down headlong from the top of the capitol. If he be a child under the age of puberty, let him be corrected, according to the prætor's discretion, and let reparation be made to the injured party.

III. LAW. When robbers attack any person with arms, if the person attacked has cried out for help, he shall not be punished if he kill the robbers.

IV. LAW. When upon a legal search any stolen goods are found in a house, the robbery shall be punished upon the spot, as if openly and publicly committed.

V. LAW. For robberies committed privately, the robber shall be condemned to pay double the value of the things stolen.

VI. LAW. Whosoever shall cut down trees, which do not belong to him, he shall pay

twenty-five asses of brass, for every tree so felled.

VII. LAW. If any one comes privately, by night, and treads down another man's field of corn, or reaps his harvest, let him be hanged up, and put to death, as a victim devoted to Ceres. But if he be a child, under the age of puberty, let the prætor order him to be corrected as he shall think fit, or let double satisfaction be made for the damage he has done.

VIII. LAW. If a robber and the person robbed agree together upon terms of restitution, no further action shall lie against the robber.

IX. LAW. Prescription shall never be pleaded as a right to stolen goods, nor shall a foreigner have a right to the goods of any Roman citizen, by the longest possession.

X. LAW. If any one betrays his trust, with respect to what is deposited in his hands, let him pay double the value of what was so deposited, to him who entrusted him with it.

XI. LAW. If any one finds any of his goods in another man's possession, who became possessed of them by a breach of trust, let the prætor nominate three arbitrators to judge of it: and let the wrongful possessor pay double the value of what he has gained by detaining them.

XII. LAW. If a slave has committed a robbery, or done any damage, with the privity and at the instigation of his master, let the master deliver up the slave to the person injured, by way of compensation.

Year of  
R O M E  
CCCH.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.



Year of  
R O M E  
CCCII.

Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

## TABLE III.

OF LOANS, AND THE RIGHT OF CREDITORS OVER  
THEIR DEBTORS.

I. LAW. Let him who takes more than one *per cent.* interest for money, be condemned to pay four times the sum lent.

II. LAW. When any person acknowledges a debt, or is condemned to pay it, the creditor shall give his debtor thirty days for the payment of it: after which, he shall cause him to be seized, and brought before a judge.

III. LAW. If the debtor refuses to pay his debt, and can find no security, his creditor may carry him home, and either tie him by the neck, or put irons upon his feet, provided the chain does not weigh above fifteen pounds; but it may be lighter, if he pleases.

IV. LAW. If the captive debtor will live at his own expense, let him; if not, let him who keeps him in chains allow him a pound of meal a day, or more if he pleases.

V. LAW. The creditor may keep his debtor prisoner for sixty days. If in this time the debtor does not find means to pay him, he that detains him shall bring him out before the people three market-days, and proclaim the sum of which he has been defrauded.

VI. LAW. If the debtor be insolvent to several creditors, let his body be cut in pieces on the third market-day. It may be cut into more or fewer pieces with impunity: or, if his creditors consent to it, let him be sold to foreigners beyond the Tiber.

## TABLE IV.

## OF THE RIGHT OF FATHERS OF FAMILIES.

I. LAW. Let a father have the power of life and death over his legitimate children, and let him sell them when he pleases.

II. LAW. But, if a father has sold his son three times, let the son then be out of his father's power.

III. LAW. If a father has a child born, which is monstrously deformed, let him kill him immediately.

IV. LAW. Let not a son, whose father has so far neglected his education as not to teach him a trade, be obliged to maintain his father in want; otherwise let all sons be obliged to relieve their fathers.

V. LAW. Let not a bastard be obliged to work to maintain his father.

Year of  
R O M E  
CCCII.

Bef. J. C.  
Four hundred  
fifty.

First De-  
cemvirate.

## TABLE V.

## OF INHERITANCES AND GUARDIANSHIPS.

I. LAW. After the death of a father of a family, let the disposition be made of his estate, and his appointment concerning the guardianship of his children be observed.

II. LAW. If he dies intestate, and has no children to succeed him, let his nearest relation be his heir; if he has no near relation, let a man of his own name be his heir.

III. LAW. When a freed-man dies intestate, and without heirs, if his patron be alive, or has left children, let the effects of the freed-man go to the family of his patron.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.  
First De-  
cemvirate.

IV. LAW. After the death of a debtor, his debts shall be paid by his heirs, in proportion to the share they have in his inheritance. After this, they may divide the rest of his effects, if they please, and the prætor shall appoint three arbitrators to make the division.

V. LAW. If a father of a family dies intestate, and leaves an heir under age, let the child's nearest relation be his guardian.

VI. LAW. If any one becomes mad, or prodigal, and has nobody to take care of him, let a relation, or, if he has none, a man of his own name, have the care of his person and estate.

#### TABLE VI.

##### OF PROPERTY AND POSSESSION.

I. LAW. When a man conveys his estate to another, let the terms of the conveyance create the right.

II. LAW. If a slave, who was made free on condition of paying a certain sum, be afterwards sold, let him be set at liberty, if he pay the person who has bought him the sum agreed upon.

III. LAW. Let not any piece of merchandise, though sold and delivered, belong to the buyer, till he has paid for it.

IV. LAW. Let two years possession amount to a prescription for lands, and one for moveables.

V. LAW. In litigated cases the presumption shall always be on the side of the possessor: and in disputes about liberty or



slavery, the presumption shall always be on the side of liberty.

## TABLE VII.

## OF TRESPASSES AND DAMAGES.

I. LAW. If a beast does any damage in a field, let the master of the beast make satisfaction, or give up the beast.

II. LAW. If you find a rafter or a pole which belongs to you, in another man's house or vineyard, and they are made use of, do not pull down the house, or ruin the vineyard; but make the possessor pay double the value of the thing stolen; and when the house is destroyed, or the pole taken out of the vineyard, then seize what is your own.

III. LAW. Whoever shall maliciously set fire to another man's house, or an heap of corn near his house, shall be imprisoned, scourged, and burnt to death. If he did it by accident, let him repair the damage: and if he be a poor man, let him be slightly corrected.

IV. LAW. Whoever shall deprive another of the use of a limb, shall be punished according to the law of retaliation, if the person injured does not agree to accept some other satisfaction.

V. LAW. If he has only dislocated a bone, let him pay three hundred pounds of brass, if the sufferer be a freed-man, and a hundred and fifty if he be a slave.

VI. LAW. For common blows with the fist, and injurious words, the punishment shall be twenty-five asses of brass.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.  
First De-  
cemvirate.

VII. LAW. Whoever slanders another by words, or defamatory verses, and injures his reputation, shall be beaten with a club.

VIII. LAW. Let him who has once been a witness, and refuses to be a witness again, though a public person, be deemed infamous, and made incapable of bearing witness any more.

IX. LAW. Let every false witness be thrown down headlong from the capitol.

X. LAW. Whoever shall wilfully kill a freed-man, or shall make use of magical words to hurt him, or shall have prepared poison for him, or given it to him, shall be punished as an homicide.

XI. LAW. Let all parricides be thrown into the river, sewed up in a leather bag, and with their heads veiled.

XII. LAW. The guardian who manages the affairs of his ward ill, shall be reprimanded; and if he be found to have cheated him, he shall restore double.

XIII. LAW. A patron who shall have defrauded his client, shall be execrable.

### TABLE VIII.

#### OF ESTATES IN THE COUNTRY.

I. LAW. Let the space of two foot and an half of ground be always left between one house and another.

II. LAW. Societies may make what by-laws they please among themselves, provided they do not interfere with the public laws.

Year of  
R O M E  
CCCL.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

III. LAW. When two neighbours have any disputes about their bounds, the prætor shall assign them three arbitrators.

IV. LAW. When a tree planted in a field does injury to an adjoining field by its shade, let its branches be cut off fifteen foot high.

V. LAW. If the fruit of a tree falls into a neighbouring field, the owner of the tree may go and pick it up.

VI. LAW. If a man would make a drain, to carry off the rain-water from his ground to his neighbour's, let the prætor appoint three arbitrators, to judge of the damage the water may do, and prevent it.

VII. LAW. Roads shall be eight foot wide, where they run straight, and where they turn, sixteen.

VIII. LAW. If a road between two fields be bad, the traveller may drive through which field he pleases.

#### TABLE IX.

##### OF THE COMMON RIGHTS OF THE PEOPLE.

I. LAW. Let not privilege be granted to any person.

II. LAW. Let both debtors who are got out of slavery, and strangers who have rebelled, and returned to their duty, be restored to their ancient rights, as if they never offended.

III. LAW. It shall be a capital crime for a judge or arbitrator to take money for passing judgment.

IV. LAW. Let all causes, relating to the life,



Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

liberty, or rights of a Roman citizen, be tried only in *comitia* by centuries.

V. LAW. Let the people appoint quæstors, to take cognizance of all capital cases.

VI. LAW. Whoever shall hold seditious assemblies in the city by night, shall be put to death.

VII. LAW. Let him who shall have solicited a foreigner to declare himself against Rome, or shall have delivered up a Roman citizen to a foreigner, lose his life.

VIII. LAW. Let only the last laws of the people be in force [i. e. let the last supersede all former ones, in the same case made and provided.]

### TABLE X.

#### OF FUNERALS, AND ALL CEREMONIES RELATING TO THE DEAD.

I. LAW. Let no dead body be interred or burnt within the city.

II. LAW. Let all costliness and excessive wailings be banished from funerals.

III. LAW. Let not the wood, with which funeral-piles are built, be cut with a saw<sup>2</sup>.

IV. LAW. Let the dead body be covered with no more than three habits, bordered with purple; and let no more than ten players upon

<sup>2</sup> ROGUM ASCIA NE POLITO, are the Latin words of this law, which seems to have passed from the Athenians to the Romans. Solon, and after him Phalerius, forbad the use of joinery, and the ornaments of sculpture, in the building of sepulchres.

the flute be employed in celebrating the obsequies<sup>3</sup>.

V. LAW. Let not the women tear their faces, or disfigure themselves, or make hideous outcries.

VI. LAW. Let not any part of a dead body be carried away, in order to perform other obsequies for the deceased, unless he died in war, or out of his own country .

<sup>3</sup> It was a law established by Solon, that no more than three robes should be buried or burnt with the corpse ; it being customary among the ancients to load the funeral-pile or fill the sepulchre with rich habits, and all the valuable things the deceased had had in his lifetime ; agreeable to these lines of Virgil in his sixth *Æneid*,

— *Tum membra thoro defleta reponunt  
Purpureasque super vestes, velamina nota  
Injiciunt.*

The latter clause of this law did not hinder the Romans from joining trumpets to flutes in the funerals of great men.

<sup>4</sup> The civilians have given us this law, after Tully, B. 2. *de legib.* thus, HOMINI MORTUO OSSA NE LEGITO, QUO POST FUNUS FACIAS, EXTRA QUAM SI BELLII, ENDOVE HOSTICO, MORTUUS ESCIT. It often happened at Rome, that the friends and relations of the deceased carried off some parts of his body, during the celebration of the obsequies, in order to perform another funeral for him in private. Which multiplied expenses, and renewed useless grief. The decemviri therefore forbade this custom. Nevertheless the practice of interring still continued at Rome, even with regard to those bodies which were burnt. The relations and friends of the deceased reserved a small part of his body, a finger, for instance, or a bone, and buried it with as much ceremony, as if it had been the whole body. By this means the Romans intended to preserve the ancient custom of burial, without which, says Cicero, the place where the body had been burnt was not consecrated by religion, nor therefore could any one legally build a se-

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hundred fifty.

First Decemvirate.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

VII. LAW. Let no slaves be embalmed after their death ; let there be no drinking round a dead body ; nor let any perfumed liquors be poured upon it.

VIII. LAW. Let no crowns, festoons; per-fuming-pots, or any kind of perfume, be car-ried to funerals.

IX. LAW. If the deceased has merited a crown in the public games, by any exploit of his own, or the expertness of his slaves, or the swiftness of his horses, let his panegyric be made at his funeral, and let his relations have leave to put a crown upon his head, as well

pulchre there. *Nam priusquam in os injecta gleba est, locus ille, ubi crematum est corpus, nihil habet religionis. Injectâ glebâ, tum & ille humatus est, & sepulchrum vocatur, ac tum denique multa religiosa jura complectitur.* The law makes an exception for those who had died in war, or in a distant country, or who had been devoured by some wild beast, &c. It was lawful to make a funeral pomp for such, in honour of their bravery, and to erect one of those tombs for them, which the ancients called *cœnotaphia*. It was a received opinion, according to the superstition of those times, that these empty sepulchres were retreats for the wandering souls of those who had had no burial. This defect was supplied by throwing three handfuls of earth upon the tomb, and calling the deceased by his name three times. Æneas paid this tribute to the memory of young Polydorus :

*Ergo instauramus Polydoro funus, & ingens  
Aggeritur tumulo tellus. Stant manibus aræ,  
Animamque sepulchro*

*Condimus, & magna supremum voce ciemus.*

Æneid 3.

Ovid speaks of these monuments, which looked like sepulchres :

*Et sæpe in tumulis, sine corpore, nomina legi.*



during the seven days he remains in the house, as when he is carried to be buried.

X. LAW. Let no man have more than one funeral made for him, or than one bed put under him.

XI. LAW. Let no gold be used in any obsequies, unless the jaw of the deceased has been tied up with a gold thread. In that case the corpse may be interred or burnt with the gold thread.

XII. LAW. For the future, let no sepulchre be built, or funeral-pile raised, within sixty feet of any house, without the consent of the owner of the house.

XIII. LAW. Prescription shall never be pleaded against a man's right to his burial-place, or the entrance to it.

## TABLE XI.

### OF THE WORSHIP OF THE GODS, AND OF RELIGION.

I. LAW. Let all persons come with purity and piety to the assemblies of religion, and banish all extravagance from thence. If any one does otherwise, may the gods themselves revenge it.

II. LAW. Let no person have particular gods of his own; or worship any new and foreign ones in private, unless they are authorized by public authority.

III. LAW. Let every one enjoy the temples consecrated by his forefathers, the sacred groves in his fields, and the oratories of his lares. And let every one observe the rites

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hundred fifty.

First Decemvirate.

The laws of the 11th and 12th tables were not drawn up till the next year 303, nor passed till 305 of Rome.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

used in his own family, and by his ancestors, in the worship of his domestic gods.

IV. LAW. Honour the gods of heaven, not only those who have always been esteemed such, but those likewise whose merit has raised them thither, as Hercules, Bacchus, Æsculapius, Castor, Pollux, and Romulus.

V. LAW. Let those commendable qualities, by which heroes obtained heaven, be ranked among the gods, as understanding, virtue, piety, fidelity; and let temples be erected to them. But let no worship ever be paid to any vice.

VI. LAW. Let the most authorized ceremonies be observed.

VII. LAW. Let lawsuits be suspended on festivals, and let the slaves have leave to celebrate them after they have done their work. That it may be known on what days they fall, let them be set down in the calendars.

VIII. LAW. Let the priests offer up in sacrifice to the gods, on certain days, the fruits of the earth, and berries: and on other days abundance of milk, and young victims. For fear this ceremony should be omitted, the priests shall end their year with it. Let them likewise take care to choose for every god the victim he likes. Let there be priests appointed for some gods, flamines for others, and pontifices to preside over them all.

IX. LAW. Let no woman be present at the sacrifices which are offered up in the night, except at those which are made for the people, with the usual ceremonies. Nor let any one

be initiated in any mysteries brought from Greece, but those of Ceres.

X. LAW. If any one steals what belongs, or is devoted to the gods, let him be punished as a parricide.

XI. LAW. Leave perjury to be punished with death by the gods, and let it be punished with perpetual disgrace by men.

XII. LAW. Let the pontifices punish incest with death.

XIII. LAW. Let every one strictly perform his vows: but let no wicked person dare to make any offerings to the gods.

XIV. LAW. Let no man dedicate his field to the service of the altar; and let him be discreet in his offerings of gold, silver, or ivory. Let no man dedicate a litigated estate to the gods: if he does, he shall pay double the value of it to him whose right it shall appear to be.

XV. LAW. Let every man constantly observe his family-festivals.

XVI. LAW. Let him who has been guilty of any of those faults, which make men execrable, and are not to be atoned for by expiations, be deemed impious. But let the priests expiate such as are to be expiated<sup>5</sup>.

<sup>5</sup>SACRUM COMMISSUM QUOD NEQUE EXPIARI POTERIT, IMPIE COMMISSUM ESTO: QUOD EXPIARI POTERIT, PUBLICI SACERDOTES EXPIANTO. That is to say, a premeditated crime could not be expiated by the blood of victims, because it implied a formal contempt of the gods. It therefore was the guilty person's business to repair the injury he had done religion by repentance and legal satisfaction.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hundred fifty.

First Decemvirate.



Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First. De-  
cemvirate.

## TABLE XII.

## OF MARRIAGES, AND THE RIGHT OF HUSBANDS.

I. LAW. When a woman shall have cohabited with a man for a whole year, without having been three nights absent from him, let her be deemed his wife<sup>6</sup>.

II. LAW. If a man catches his wife in adultery, or finds her drunk, he may, with the consent of her relations, punish her even with death.

III. LAW. When a man will put away his wife, the form of doing it shall be by taking from her the keys of the house, and giving her what she brought. This shall be the manner of a divorce.

IV. LAW. A child born of a widow, in the tenth month after the decease of her husband, shall be deemed legitimate.

<sup>6</sup> This law is quoted by Aulus Gellius, B. 3. c. 2. and by Macrobius Saturnal. B. 1. c. 3. The civilians state it as follows: *MULIERIS QUÆ ANNUM MATRIMONII ERGO, APUD VIRUM REMANSIT, NI TRI NOCTIUM AB EO, USURPANDI ERGO, ABESCIT, USUS ESTO*, i. e. Let a man be absolute master of a woman, who has cohabited with him for the space of one year, provided that, in all this time, she has not been absent from him three nights. She then became his wife, yet not in such a manner, as to be a sharer in the husband's goods, or to have a right to his inheritance. So that this was being in a condition much below that of a lawful wife; by which we mean one whose marriage was solemnized with the usual ceremonies.

V. LAW. It shall not be lawful for the patricians to intermarry with the plebeians<sup>7</sup>.

<sup>7</sup> Cicero declares it as his positive judgment and opinion, that "the laws of the TWELVE TABLES are justly to be preferred to whole libraries of the philosophers." Cic. de Orat. B. 1.

These laws being established, it necessarily followed, that there should be disputations and controversies in the courts, since the interpretation was to be founded on the authority of the learned. This interpretation they called *jus civile*, though at present we understand by that phrase the whole system of the Roman laws.

Besides out of all these laws the learned men of that time composed a scheme of forms and cases, by which the processes in the courts were directed. These were termed *actiones legis*.

We may add to these the laws preferred at the public assemblies of the people; and the *plebiscita*, made without the authority of the senate, at the *comitia tributa*, which were allowed to be of equal force with other constitutions, though they were not honoured with the title of *leges*.

And then the *senatus consulta*, and edicts of the supreme magistrates, particularly of the prætors, made up two more sorts of laws, the last of which they called *jus honorarium*.

And, lastly, when the government was intrusted in the hands of a single person, whatever he ordained had the authority of a law, with the name of *principalis constitutio*.

Most of these daily increasing, gave so much scope to the lawyers for the compiling of reports and other labours, that in the reign of Justinian, there were extant two thousand distinct volumes on this subject. The body of the law being thus grown unwieldy, and rendered almost useless by its excessive bulk, that excellent emperor entered on a design to bring it into just dimensions; which was happily accomplished in the constituting those four tomes of the civil law, which are now extant, and have contributed, in a great measure, to the regulating of all the states in Christendom: so that the old fancy of the Romans, about the eternity of their command, is not so ridiculous as at first sight it appears, since by their admirable sanctions, they are still like to govern for ever. Kennet's Antiq. part 2. B. 3. chap. 21.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.  
First De-  
cemvirate.

## CHAP. XXVIII.

I. *The senate and people agree to have the same sort of government continued for another year. Appius gets himself rechosen to the decemvirate, and prevails with the people to elect nine men, (of whom three are plebeians) all devoted to his will, to be his colleagues. II. The new decemvirs privately agree to make their authority perpetual. They draw up two new tables of laws. III. Their year being expired, they continue themselves in office by their own authority. They convene the senate, in order to obtain a levy of troops to oppose the incursions of the Æqui and Sabines. A sharp debate, in which Valerius and Horatius exert themselves in opposing the measures of the decemvirs; who nevertheless carry their point. IV. Valerius and Horatius, to secure themselves from being insulted by the decemvirs, keep guards about their persons. Many of the senators and other principal citizens retire into the country. Appius confiscates their estates. V. Fabius with two other of the decemvirs leads an army against the Sabines. Five other decemvirs lead five legions against the Æqui. Appius and Oppius stay with a body of troops in Rome. Nothing succeeds in the two camps, the soldiers being resolved not to conquer. Sicinius Dentatus, that old soldier, who had been in 120 battles, publicly gives out at Rome, that the misfortunes of the campaign are owing to the incapacity of the generals. Appius hereupon contrives, in concert with the decemvirs, who command against the Sabines, to get him treacherously murdered. The discovery of this murder disposes the soldiers to a revolt.*

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.  
D. Hal, B.  
10, p. 681,  
682.  
Livy, B. 3.  
c. 34, 35.

I. **THOUGH** the laws contained in the **TEN TABLES** had been approved in all their parts, both by the nobles and the plebeians; yet many persons were of opinion, that several regulations, which would fill two other tables, ought to be added to the former, in order to make a complete body of Roman laws. This notion prevailing, it occasioned a proposal of continu-



ing the decemviral government for one year more: the senate and the people with equal readiness, though for different reasons, consented to the motion. The people were extremely desirous to keep back the restoration of the consular authority, and at present they found but little want of the protection of their tribunes, because the decemvirs admitted in some sort of appeals, allowing causes which had been determined by one of them to be reheard by another. And as for the senators, they were glad at any rate to be rid of the tribunes, those plebeian magistrates so odious to them, and whose functions they now conceived hopes of entirely abolishing. Before the holding of the *comitia* for electing new decemvirs, the senate fell into divisions about that dignity. Some aspired to it out of ambition; others, who had been the warmest opposers of its establishment, courted the office now; but it was only in order to exclude those whose behaviour gave cause to suspect them of some ill designs.

Appius at first pretended to be weary of a charge so difficult and laborious, and to be very averse to burden himself with it a second time. But his well-known and avowed intimacy with the Duilii, and Icilii, the leading men among the people; the pains he took to make himself agreeable to the plebeians; his affability and moderation, so contrary to the pride of the Claudian family; all this gave great uneasiness to his competitors, and rendered him suspicious to his colleagues. These latter, to

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hundred fifty.

First Decemvirate.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

make sure of his exclusion, appointed him to preside at the new election, and as it was the custom at every election for the president to give out the names of those who stood for the office in question, they imagined, that Appius, after the declarations he had made, could not have the assurance to put his own name in the list of candidates: besides, excepting an instance or two of some shameless tribunes of the people, it was a thing unheard of, that he who presided at an election of magistrates, should offer himself for one. Appius nevertheless, contrary to all rules of decency, proposed himself for first decemvir; and the people, who were now entirely devoted to him, readily gave him their suffrages. The other persons chosen to the government were such as Appius had favoured and recommended. The first of the number was Q. Fabius Vibulanus, who had been three times consul, a patrician indeed of manners hitherto unblamable. After him were named M. Cornelius, M. Sergius, L. Minucius, T. Antonius, and M. Rabuleius, senators very little esteemed in their own body, but all devoted to the service of Appius, who by his private brigues carried the decemviral dignity in their favour from the Quinctii, and even from his own uncle Claudius, as likewise from his colleagues in the first decemvirate. But what most surprised and alarmed the senate, was, that Appius, forgetting his own glory and that of his ancestors, was not ashamed, out of complaisance to the late tribunes, to whom he had sold his faith,

to propose three plebeians for decemvirs, pretending it was but just, that there should be some persons in that college to take care of the interests of the people. Thus he brought in Q. Petilius, Cæso Duilius; and Sp. Oppius, all three plebeians, excluded by their birth from those prime magistracies.

Year of  
R O M E  
CCCII.  
Bef. J. C.  
Four hun-  
dred fifty.

First De-  
cemvirate.

II. AND now Appius seeing himself, by means of his dissimulation and cabals, once more at the head of the decemvirate, turned his thoughts wholly to make his domination perpetual. He immediately assembled his new colleagues, who were all obliged to him for their dignities, and throwing off the mask of a republican, represented to them, that being intrusted with a commission wherein the consular authority and that of the tribunes were united, nothing was more easy than to retain this sovereign power during their whole lives; that the sure means thereto was to assume to themselves the cognizance of all affairs, not suffering them to be carried before either the senate or the people; to convene those two bodies as seldom as possible; and above all to keep firmly united among themselves. That they ought to have a mutual complaisance for each other; that the whole college ought to interest itself warmly for the particular affairs of each decemvir; and he added, that he thought they should all bind themselves by the most solemn oaths, never to interrupt one another in the execution of their particular designs. As this proposal of Appius agreeably flattered the ambition of

Year of  
R O M E  
CCCIII.  
Bef. J. C.  
Four hun-  
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Second De-  
cemvirate.



Year of  
R O M E  
CCCIII.  
Bef. J. C.  
Four hun-  
dred forty-  
nine.

Second De-  
cemvirate.

Livy, B. 3.  
c. 36, 37.  
D. Hal. B.  
10. p. 682.

his colleagues, they readily came into it, and took the oaths that he required—A new conspiracy against the public liberty.

These magistrates entered into possession of their dignity on the ides of May; and to strike immediate terror and respect into the people, they appeared in public each with twelve lictors bearing axes among their fasces like those that used anciently to go before the kings of Rome, and afterwards before the dictator; so that the Forum was filled with a hundred and twenty lictors. The people could not see this train and parade of tyranny without indignation. The comparison they made between the moderation of the consuls, and the haughty behaviour of the decemvirs, soon led them to regret their old government. They complained in private, that now ten kings were set up over them instead of two consuls. But these reflections came too late, and it was not in their power to undo their own work. The decemvirs began to reign imperiously and with a despotic authority. Beside their lictors, they had each of them, by way of guard, a band of fellows without house or home, most of them infamous for crimes, or loaded with debts. But what was still more deplorable, there followed in the train of these new magistrates a crowd of young patricians, who preferring licentiousness to liberty, made their court, in the most abject manner, to the dispensers of favours; and to provide for their own pleasures, did not blush to be ministers to those of the decemvirs. There was no longer

p. 683.  
B 11.  
p. 686.

any safe asylum for beauty and virtue. Those unbridled youths, under shelter of the sovereign power, tore the daughter out of the bosom of her mother with impunity. Nor was property in lands or goods any more secure from the invasions of those creatures and supporters of tyranny; upon the most frivolous pretensions they took possession of their neighbours' estates that lay convenient for them. In vain was application made to the decemvirs for redress; the complainants were treated with contempt, their complaints rejected, and favour and self-interest sat in the place of law and justice. If any citizen, warmed with a remaining spark of the ancient liberty, was so bold as to express his resentment, he was beaten with rods like a slave; others were banished; some were even put to death; and confiscation always followed the execution.

The people groaning under so cruel a tyranny turned their eyes to the senate, from whence they hoped for liberty. But most of the senators, dreading the fury of the decemvirs, were retired into the country. Those who staid in the city were not displeased to find that the severity of the present government made that of the consuls regretted; and they flattered themselves the people would gladly give up their tribunes, if they could but be delivered from the domination of the decemvirs.

C. Claudius, a consular person and Appius's uncle, deeply concerned to see his nephew make himself the tyrant of his country, went several times to his house, with an intention to

Year of  
R O M E  
CCCIII.  
Bef J. C.  
Four hundred forty-  
nine.

Second De-  
cemvirate.

D. Hal. B.  
10. p. 696.

Year of  
R O M E  
CCGIII.  
Bef. J. C.  
Four hun-  
dred forty-  
nine.

Second De-  
cemvirate.

Livy, B. 3.  
c. 37.  
D. Hal. B.  
10. p. 684.

reprove him, and to put him in mind how much he shamed the memory of his ancestors by so odious a conduct: but Appius, guessing at the design of these visits, constantly eluded them, and the venerable old man found by experience, that tyrants never own either relations or friends.

In the meantime the decemvirs drew up two tables of laws to be added to the ten that had been promulgated the year before. Among those additional laws there was one prohibiting alliances between patricians and plebeians by intermarriage; a prohibition which Dionysius conjectures to have been made with a view to perpetuate the divisions between the two orders in the republic; the decemvirs being apprehensive, that if the nobility and commonalty should ever unite, they would turn against them all that animosity which they had used to express against each other.

III. THE body of Roman law being now completed, and the sole end for which the decemvirate had been instituted being thereby accomplished, it was reasonably hoped, that the tyranny which the public groaned under would shortly cease, and the decemvirs, as soon as their year was expired, be succeeded by consuls. But the ides of May came, and not the least appearance of any *comitia* for an election of new magistrates. The tyrants then showed themselves barefaced, and in spite both of senate and people retained the government, without any other title but possession and violence. All who gave them the least umbrage



were proscribed; and many citizens voluntarily banished themselves from their country, taking refuge among the Latines and the Hernici.

Every body secretly deplored the loss of liberty, but not one citizen in the whole republic was so generous as to attempt to break her chains. The Roman people seemed to have lost that courage which had formerly made them much feared and respected by their neighbours. The nations that had submitted to the dominion of the Romans began now to despise them, and they disdained to be subject to a city which had lost her own liberty. The Sabines, after several incursions in flying parties upon the territories of the republic, gathered their forces together into one body, and advancing along the Tiber, encamped near Ere-tum, about twelve miles from Rome; and the Æqui, having first ravaged the lands of Tusculum, came and pitched their camp near the Algidus. These two armies, which seemed to threaten Rome with a siege, much alarmed the decemvirs. It was absolutely necessary to raise troops: but in what method to proceed in the enrolments, whether in a way of gentleness or severity; and whether they should enlist all indiscriminately, or only those who were least disaffected to the government: these were difficulties which at first perplexed them. Nor were they less unresolved, whether to apply to the senate, or to the people, for a decree to levy an army in legal form, or whether they should act in this affair by their own sole au-

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

Livy, B. 3.  
c. 38.

D. Hal. B.  
11. p. 687.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

thority. At length, after many councils held among themselves on this matter, they determined to convene the senate, believing it easier to engage this body than the other to favour their pretensions; and not doubting but the people, having lost with their tribunes the privilege of opposition, would readily obey a decree of the magistrates, when it had the sanction of the senate's authority.

Livy, B. 3.  
c. 38.

It was a great surprise to the people to hear proclamation made in the Forum for the senators to meet. Thanks to our enemies, said they, for this single spark of our ancient liberty. But when the decemvirs repaired to the senate-house, they found nobody there except their own creatures, who came prepared to act the parts which had been assigned them.

The other senators had thrown up all care of the public affairs; and were retired, as was said before, to their country-houses. The decemvirs sent messengers thither to them, appointing another assembly for next day. Most of them returned to Rome, and came to the senate-house; but with views widely different from those of the usurpers.

Appius, in a studied discourse, having laid open the necessity of taking arms, to repel the incursions of the Æqui and Sabines, L. Valerius Potitus, without waiting till it came to his turn to give his opinion, presently stood up. He was the son of that Valerius, who was slain at the head of the Romans fighting against Herdonius, and grandson of the famous Valerius, surnamed Publicola, one of the chief foun-

ders of the public liberty. Appius fearing that a man of that family, and of the same character with his ancestors, would propose something contrary to the interests of the decemvirs, sternly commanded him to sit down and hold his peace, telling him, that he ought to wait till senators older than himself, and more considerable in the republic, had declared their opinions first. "You say very well (replied Valerius), had I been going to speak upon the business which you have proposed; but I have matters of much greater moment to lay before this assembly, and what the senate, if I mistake not, will think to be much more worthy of its immediate attention. Whence is it that you have the presumption to impose silence upon me, a senator, a Valerius, standing up for the liberty of the commonwealth? And yet if you persist in this your insolence, your accustomed insolence, to what tribunes shall I have recourse? You have deprived us of that succour which the laws had provided for every citizen under oppression. But is it indeed come to this? And does Valerius, to preserve his right, want the aid of the tribunitian power? Well then, since you and your colleagues have usurped that power, together with the sovereignty, shall I appeal to you decemvirs? Shall I implore the assistance of you all? To what purpose, when my design is to lay open that conspiracy which you have all formed against the public liberty? Yet to you, Quintus Fabius, who have been honoured with three consulates, to you alone I will appeal. Rise, Fa-

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.  
Liv'y, B. 3.  
c. 39. &  
seq.  
D. Hal. B.  
11. p. 688,  
689.



Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.  
D. Hal. B.  
11. p. 689.

bis, if you have not lost that spirit which was once your glory, rise and succour the oppressed! It is on you that the senate turns its eyes."

Fabius, confounded and overwhelmed with shame, had not power to answer. But Appius and the rest of the decemvirs, starting up in anger from their seats, cried out once more to Valerius, commanding him silence, and adding threats to their injunctions: so extraordinary a proceeding raised a tumult in the assembly. Many of the senators were filled with indignation at the haughty manner of the decemvirs; but nobody was so highly provoked at it as M. Horatius Barbatus. He was grandson of that Horatius who had been consul with Poplicola. As he had inherited his grandfather's ardent zeal for liberty, and was an intimate friend of Valerius, he could no longer bear the insolence of Appius and his colleagues. He stood up, and loudly called them the Tarquins and tyrants of their country.

Ibid.  
Livy, B. 3.  
c. 39.

"You talk to us of war begun against us by the Sabines, as if the Roman people had greater enemies than yourselves. I would gladly know by what authority you convened this assembly, and by what right you take upon you to preside in it. Is not the time of your magistracy expired? Do you not know that the decemviral power was given you but for one year? We chose you to establish such laws as were fit for a free state to submit to, and you have left no appearance of that equality which was the sole object the Romans had in view. You

have suppressed the assemblies both of the people and of the senate. There is no longer any mention made of elections, either of consuls or of tribunes; all the annual magistracies are abolished. It is not the name of king that makes a tyrant. You decemvirs have totally subverted our government, to build upon its ruins your own empire and domination. But know, that the blood of Valerius and Horatius, who formerly drove the Tarquins out of Rome, yet runs in the veins of their descendants. We have the same courage and the same zeal for the liberty of our country. The gods, protectors of this city, will grant us the same success; and I hope the people, no less jealous of their freedom than their ancestors, will never desert us in so just a cause."

Horatius was going on with his discourse, when the decemvirs with loud clamours all came and surrounded him, threatening to have him thrown from the Tarpeian rock if he did not instantly hold his peace. But when they perceived that the senate in general expressed an uncommon resentment at this tyrannical invasion of the liberty of speech, they presently repented of their rashness. Appius, to soothe the minds of the senators, having first requested and obtained a moment's silence, assured them that the decemvirs were far from having the least thought of hindering any one of the conscript fathers from freely delivering his opinion: that if he had imposed silence upon Valerius, it was only to oblige him to conform to

Year of  
R. O. M. E.  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.  
Third Decemvirate.

D. Hal. B.  
11. p. 690.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

the ordinary method, which was, that every man should speak in his turn, unless he was particularly applied to by him who presided in the senate: that whatever Horatius might imagine to the contrary, the right of the decemvirs to exercise this authority did still subsist: that their commission had not been limited by the people to one year, or to any fixed period of time, but was to last till the tables of laws were completed and passed in due form; after which they would lay down their magistracy, and give an account of their administration. Then turning to his uncle, C. Claudius, he desired him to speak his mind with freedom. He perhaps flattered himself that Claudius, out of affection for a near relation, or moved by a zeal for the glory and interest of his family; or pleased with the honour of being the first whose opinion was asked, would take upon him to answer the severest parts of Horatius's invective. But the decemvir addressed himself to a true Roman, one who would have sacrificed his own children to the preservation of the public liberty.

DHa 1B.  
11. p. 691.  
& seq.

Claudius observed to the assembly, that two affairs of different natures were then to be considered of; a war abroad, and a remedy for the dissensions at home with relation to the government: that as to the war, the late incursions of the enemies were wholly owing to the encouragement which the intestine divisions in the republic gave them: that therefore the first thing to be done, was to settle peace and union in the city, after which the very ap-



pearance of the standards of the legions would be enough to frighten away the Æqui and Sabines, over whom the Romans had already so often triumphed: but that he doubted whether the people would range themselves under the banners of the decemvirs, whom they justly looked upon as private men, who had usurped the sovereign power. Then directing his speech to his nephew: “ Know you not, Appius, how odious your conduct is to all good men? The voluntary exile to which our most illustrious senators have condemned themselves, does it not sufficiently show that they look upon you as a tyrant? The senate very impatiently bears your robbing them of their authority; the people demand their right of appeal, and that of opposition which you have deprived them of; all our citizens call upon you, some for their estates, which have been made a prey to your ruffians, others for their daughters, whom you have forced away to satisfy your criminal passions. The whole city, the whole nation detest a magistracy, which has destroyed their liberty, abolished the use of *comitia*, usurped the legal authority of the consuls, and suppressed the functions of the tribunes. Restore to the commonwealth the power with which she entrusted you but for one year; restore to us our ancient form of government; restore yourself to yourself. Call to mind your former virtue, and generously quit, together with an unwarrantable power, the very name of decemvir, which you have made so odious. I conjure you to this by our

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

common ancestors, by the manes of your father, that illustrious citizen, who left you so noble an example of moderation, and of zeal for the public liberty; I conjure you especially by your own preservation, and the care of your life, which you must unavoidably lose by some ignominious punishment, if you obstinately persist to hold any longer the unjust empire which you have usurped over your fellow citizens."

D. Hal. B.  
10. p. 696.

p. 697.

Thus spake Claudius, and the senate at first conceived hopes that the decemvirs would be induced to lay down their magistracy. But Appius disdained to give his uncle any answer. M. Cornelius, one of his colleagues, taking upon him to speak, and applying himself directly to C. Claudius, told him proudly, that those who had the government of the republic did not stand in need of his advice to direct their conduct. That if he thought he had a right to give particular counsels to his nephew, he might go to him at his house; that the only affair in question now was the war with the Æqui and Sabines; "Tell us therefore," said he, "your opinion on this point, for on this only it was asked, and do not waste our time in digressions that are nothing to the purpose."

Claudius, yet more provoked at the scornful silence of Appius, than his colleague's insolent answer, rose up again, and turning to the senate: "Since my nephew will not condescend to speak to me, either in his own house or in full senate, and I am so unhappy as to

see the tyrant of my country arise out of my own family, I declare, conscript fathers, that I am resolved to retire to Regillus. I banish myself from Rome, and make an oath never to enter it again but with our liberty. However, to fulfil the obligation I lie under of giving my opinion with relation to the present business, I do not think that any levy of troops ought to be made, till consuls are first chosen to lead them."

L. Quinctius Cincinnatus, T. Quinctius Capitolinus, and L. Lucretius, all consular persons, and the principal men in the senate, declared themselves of the same opinion. M. Cornelius, apprehending that the authority of those great men would draw the rest of the senate after them, interrupted the order of gathering the suffrages, and asked the opinion of his brother L. Cornelius<sup>1</sup>, with whom he had before concerted the speech he should make in case of such an exigence. This senator then rose up, but made no attempt to justify either the authority or conduct of the decemvirs. Taking a more artful turn, he only represented to the assembly, how expedient he thought it would be to defer the election of new magistrates, till the enemy was driven out of the territory of Rome. "Have those," said he, "who are so warm for the abdication of the decemvirs, had any promise from the Æqui and Sabines, that they will put a stop to the progress of their arms, till we have

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.  
Third Decemvirate.

D. Hal. B.  
11. p. 698.  
& seq.

<sup>1</sup> He had been colleague to Q. Fabius in the third consulate of the latter.



Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty  
eight.

Third De-  
cemvirate.

changed the form of our government? You know, conscript fathers, the tedious delays which our elections require: First, there must be a *senatus-consultum* to appoint the *comitia* by centuries. This assembly cannot be held till seven-and-twenty days after notice given. When the new magistrates are named, and have taken possession of the government, they must prefer a petition for the levies to another assembly of the people; and before all these things can be done, and the necessary troops can be raised to repel the enemy, who will warrant us that we shall not see them at the gates of Rome, and in a condition to lay siege to the city? And what shall we do in this case? Doubtless we shall say to the Æqui and Sabines, ‘A little patience, if you please. Suspend your attacks till we have chosen other magistrates. Caius Claudius has persuaded us not to pass any decree for raising forces, unless new generals be first elected to command them. Begone therefore out of our territory, and when you hear that the Roman people have created consuls, and that we have made all necessary preparations for war, you may then return and sue to us for peace.’ Strange infatuation! that such follies should ever enter into the minds of men. Nor surely less strange is our stupidity, that we can hear these triflers without indignation, as if we were consulting for the safety of our enemies, not the preservation of our country. My opinion, conscript fathers, is, that our decemvirs immediately inlist the legions, and march against

our enemies. Let us drive them from our frontiers, let us force them, by the terror of our arms, to beseech us to grant them peace; and when we have secured ourselves abroad, then let us employ our thoughts upon our affairs at home: revoke by your authority that of the decemvirs, if they will not of their own accord divest themselves of it: call them to an account for their administration. Elect new magistrates in their room; and let the republic return again to her ancient constitution; but permit me to tell you, that in matters of government, we must regulate our proceedings by the times, and never hope to make the times subservient to our desires and projects."

The creatures of the decemvirs declared loudly for this opinion, and the greater part of the senators came into it, some as thinking it necessary in the present conjuncture, and others out of fear of the tyrants. Nay, some of the oldest senators took the same side, in hopes that after the war was finished, the abdication of the decemvirs would quietly follow of course, and so the government return naturally into the hands of the consuls; and that prudent magistrates by their moderation might perhaps gradually accustom the people to do without their tribunes.

Appius, who with a secret pleasure saw that the majority were of the opinion of Cornelius, did then only, for form-sake desire that of Valerius, on whom he had imposed silence at the beginning of the assembly. Valerius, rising up, spoke to this effect: "You see,

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.

D. Hal. B.  
11. p. 700.

Livy, B. 3.  
c. 41.

Year of  
R. O. M. E.  
CCCLV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

D. Hal. B.  
11. p. 700,  
701.

conscript fathers, the crafty and deceitful management of these decemvirs. My mouth was stopped so long as they apprehended that what I had to offer might make some impression upon the assembly to the disadvantage of their pretensions; but now when the majority has declared for the opinion of Cornelius, why now truly they condescend to ask me mine, imagining, doubtless, that nothing which I can say, be it ever so reasonable, will be of any effect. I shall nevertheless deliver my thoughts with freedom, and you are still masters to determine as you shall judge to be most for the good of the republic.

“I declare then, in the first place, that I heartily subscribe to what C. Claudius has so wisely represented to you, concerning the expediency of creating new magistrates before we take the field. But since L. Cornelius, the avowed advocate of tyranny, has endeavoured to turn so judicious a counsel into ridicule, upon pretence that the delays requisite for the election of those magistrates would waste the time that should be employed in repelling the enemy, I think myself obliged to show you the weakness and fallacy of this wretched reasoning. To convince you that such it is, do but call to mind the measures which the republic took about ten years ago, against the same enemies, in the consulate of C. Nautius and L. Minucius.

“You know that while Nautius was on one side fighting against the Sabines, Minucius, on the other, suffered himself to be shut up by



the Æqui in the narrow passes of some mountains. There was a necessity of raising a new army to relieve him; the tribunes (according to custom) opposed all levies of troops, unless the senate would admit the law concerning the partition of the lands. In this extremity, as neither party would abate any thing of its pretensions; recourse was had to a dictator, a magistrate superior both to the senate and the tribunes of the people; L. Quinctius was chosen; he was sent for out of the country; he came to Rome; he raised a new army, and in a fortnight's time brought off that of Minucius, and triumphed over the enemy. What hinders, in the present exigence, to follow so wise and so recent an example? Let us choose an *inter-rex*, as was the practice upon the demise of the kings, and has ever been the practice when the state happened to be left, as it is now, without legal magistrates. Let him name a dictator. These things may be done in less than a day. The dictator will raise troops by the supreme power belonging to his dignity; we shall march against our enemies without delay; and at our return from the campaign, that magistrate, whose power cannot last longer than six months, will give us an opportunity to proceed at leisure, and according to the usual forms, upon the election of consuls. If, on the other hand, you intrust the command of your armies with the decemvirs, do you imagine that these ambitious men, who have usurped a tyrannical power, and in spite of all our laws refuse so obstinately to

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty  
eight.  
Third Decemvirate.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

deliver up the fasces, will easily be brought to lay down their arms? Believe rather they will turn them against you yourselves, and make use of them to perpetuate their tyranny. I demand therefore, that, in the extreme danger wherein the public liberty now is, the proposal I make to name a dictator be examined, and the opinions and votes of the senate taken thereupon."

D. Hal. B.  
11. p. 702.

Almost all the senators who were to speak after Valerius declared for this motion, as did also many of those who had before voted for the continuation of the decemvirate. But Cornelius cried out, that the affair upon which the senate had met was already decided, and that nothing new ought now to be proposed. A warm dispute hereupon arose, with much clamour and tumult. Appius, taking advantage of the disorder to accomplish his desires, stepped forth into the midst of the assembly, and spoke thus: "You were called together, conscript fathers, to deliberate concerning a war with the Æqui and Sabines. Claudius, Cornelius, and Valerius, have given different opinions. The voices of the assembly have been all taken, and the opinion of Cornelius has prevailed." He added with a contemptuous smile, "As for Valerius and his friends, if ever they attain to the consulship, let them, if they please, revise and make void decrees, which you in your wisdom have thought fit to pass." This said, he ordered the secretary to read aloud the *senatus-consultum*, (which he had already made him draw up in writing) em-

powering the decemvirs to raise troops, and to conduct the war. He then dismissed the assembly, and withdrew.

IV: THE new powers which by this decree were granted to the decemvirs, not only in some manner confirmed their authority, but made it more formidable than ever. They employed it to revenge themselves of their personal enemies, and they reckoned as such all those who did not submit to be their slaves. The most timorous among the citizens became as submissive and complying as the tyrants could wish: others, less fearful, only quitted all attention to public affairs, and turned their thoughts to live in quiet: but the men of courage and spirit held private assemblies to concert measures for restoring liberty to the commonwealth. At the head of these were Valerius and Horatius. They gathered together in their houses a great number of their friends and clients to secure them against the violence of the decemvirs; and they never appeared in the city without a powerful attendance, strong enough to repel the insults they had reason to expect. As for C. Claudius, he left Rome, as he had declared in full senate he would do, and retired to Regillus, the native city of his ancestors. Other senators, and many of the principal citizens of Rome, who could not endure the tyranny of the decemvirs, and yet found themselves unable to destroy it, sought an asylum in the country, or among the neighbouring nations. Appius, enraged to see so convincing a proof given of the aversion which

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.

D. Hal. B.  
11. p. 703.

p. 704.



Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

Livy, B. 3.  
c. 41, 42.

the best men in the republic had to his govern-  
ment, placed guards at the city gates: but  
finding that this precaution only increased the  
number of the malcontents, and fearing a ge-  
neral revolt, he removed that guard, leaving  
every body free to retire that would: but to  
be revenged of those who withdrew, he confis-  
cated the effects they had in Rome, with which  
he paid and rewarded his ruffians.

V. AND now the decemvirs began to raise  
troops for the war. Ten legions, soon com-  
pleted, were divided into three bodies. The  
decemvirs agreed among themselves, that Ap-  
pius and Oppius, invested with an authority  
equal to that of all the decemvirs united,  
should remain at Rome, and keep a garrison,  
consisting of two legions, in the capitol. Q.  
Fabius Vibulanus, with whom two other of the  
decemvirs, Q. Petilius and M. Rabuleius, were  
joined in commission, marched against the Sa-  
bines at the head of three legions. M. Cor-  
nelius, L. Minucius, M. Sergius, T. Antonius,  
and C. Duilius, all decemvirs, led five legions  
against the Æqui. The auxiliary troops of  
the Latines and other allies were, according to  
Dionysius, equal in number to the Romans.  
Nevertheless with this mighty force the gene-  
rals could effect nothing. The Roman soldiers  
having a quick sense of their loss of liberty,  
would not conquer, for fear of increasing the  
power of the decemvirs. Both armies suffered  
themselves to be defeated almost without fight-  
ing. The legions appointed against the Sa-  
bines, after some slight losses near Eretum,

made a hasty retreat in the night, and pitched their camp in the territory of Rome, between Fidenæ and Crustumeria. And as for those who were to act against the Æqui (posted upon the Algidus) they lost their camp and baggage, and fled for refuge to Tusculum. The news of these defeats was received at Rome with the same joy that would at another time have been shown for a complete victory.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

Appius, attentive to all events, sent recruits and provisions to his colleagues. He exhorted them, by letters, to keep the soldiers in awe by the terror of punishment, unless they judged this method to be dangerous in the present conjuncture. In that case he added, that they would not want opportunities during the campaign to destroy the most mutinous by private ways; and he himself set them an example.

D. Hal. B.  
11. p. 706.

Sicinius Dentatus, that renowned plebeian, who had been in one hundred and twenty engagements, filled the ears of the multitude with the faults which he affirmed the decemvirs had committed in the management of this war. Appius, to get him out of Rome, pretended an earnest desire to consult him upon the operations of the campaign. He sent for him, discoursed with him several times, admired his wisdom, and engaged him to go to the army at Crustumeria, and assist the generals with his counsels. And the sooner to induce him to make the campaign, he dignified him with the character of envoy or legate, which among the Romans (according to Dionysius) not only

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

D. Hal. B.  
11. p. 707.

gave him who was honoured with it the authority of a general, but made his person sacred and inviolable, as that of a priest.

Sicinius, free from distrust, and with the sincerity of a brave soldier, gladly embraced an opportunity of serving his country. He repaired to the camp with all speed. The decemvirs, instructed by Appius, received him with outward marks of joy, and treated him with distinction. Nothing was undertaken without his advice; but this seeming deference concealed a real design of making away with him. An occasion soon offered. Sicinius, with his accustomed frankness, having told the decemvirs, that he thought they should remove their camp into the enemy's territory, for many good reasons which he laid before them, they commissioned him to go and view the situation of the country, and mark out the ground for a new encampment; and they appointed him a hundred chosen men light-armed to be his guard; but this guard consisted only of the decemvirs' ruffians, who had secret orders to despatch him. Sicinius having led them into the narrow passages of some mountains, they took that opportunity to fall upon him. He no sooner perceived their base design, but setting his back against a rock, that he might not be attacked behind, he received them with a courage that struck terror into the boldest of them. Calling up all his ancient valour, he slew several of the assailants, and wounded others: and now not one of them durst venture near him: they stood at a distance, and threw



their darts at him. But as even this did not effect their purpose, the villains climbed up to the top of the rock, and thence knocked him on the head with stones. They then went back to the camp, and gave out that they had fallen into an ambush, in which they had lost their captain, and part of their comrades. At first they were believed; but when a band of soldiers, who, with the decemvirs' permission, went to fetch the body of Sicinius in order to its burial, came to the place of action, they perceived that the slain were all Romans; that they were all fallen with their faces towards him, and that none of them were stripped either of their arms or clothes. All these circumstances laid together made them suspect that the brave veteran had been murdered by his guard. This suspicion prevailing throughout the camp, raised loud complaints and a general discontent. The whole army with great fury demanded that the assassins should be brought to justice. But the decemvirs helped them to make their escape; and, because the soldier seemed resolved to have the body of Sicinius immediately conveyed to Rome, they with all expedition gave it an honourable funeral at the public expense. These proceedings of the generals made it but too evident, that Sicinius had not been murdered without their privity; and the discontent which so odious a treachery excited in this army rose to such a height, that the greater part of the soldiers began to think in earnest of revolting from the decemviral government. A new attempt of

Year of  
R O M E  
CCCIV.

Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.

Livy, B. 3.  
c. 43.

D. Hal. B.  
11. p. 708.

p. 709.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

Appius, which was still more hateful, and which filled up the measure of his extravagant enormities, produced, in the city and in the other army, a yet greater detestation of the present tyranny.

## CHAP. XXIX.

*I. Appius (at Rome) falls in love with Virginia, a beautiful young woman, the daughter of a plebeian. II. The wicked stratagems, which he employs to force her from her parents, that he may gratify his passion, occasion the abolition of the decemvirate, and restoration of the consulship. III. Valerius and Horatius are chosen consuls. IV. Revenge is taken on the late decemvirs.*

I. IT has been already said, that Appius, by agreement with his colleagues, staid at Rome with a body of troops to keep the inhabitants in obedience to the decemvirs. As he was one day going to his tribunal, he accidentally cast his eyes on a young virgin of uncommon beauty, who was reading her book in one of the public schools. (In these times it was customary at Rome for young persons of that sex, as well as of the other, to pursue their proper studies in schools that were purposely erected for them in the Forum.) Her charms, and the blooming graces of youth, immediately drew his attention. He could not help beholding her with a secret pleasure: his curiosity increased the next day; he thought her more lovely than before; and as he was obliged to pass often by the school, he insensibly con-

ceived a most violent passion for her. Upon inquiry after her family and condition, he learned that she was by birth a plebeian; her name Virginia; that she had lost her mother, Numitoria; that her father, Virginius, then served in the post of centurion in the army employed against the Æqui, and that he had promised his daughter to Icilius, who had been tribune of the people, and who was to marry her at the end of the campaign.

This account, so unfavourable to Appius's passion, served only to increase it. He would gladly have married Virginia, but he had a wife already; and had this not been the case, the last laws of the twelve tables, of which he was the chief framer, prohibited all intermarriages of patricians with plebeians; so that he had no room to hope for the accomplishment of his wishes, but by the scandalous means of debauching the young maid.

The innocence and modesty of Virginia restrained him from opening his dishonest purpose directly to herself. He thought it more proper to begin the work by means of one of those women of intrigue, who make a private market of the beauty and charms of youth. He loaded her with favours, and having let her into his desires, ordered her not to name him, but to say only, that Virginia's lover was a man in power, who could do much good or much hurt to others, according to his pleasure. This woman applied herself to Virginia's nurse, made her rich presents, and richer promises; and having thus paved the way, came at length

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight  
Third Decemvirate.

D. Hal. B.  
14. p. 710.  
Livy, B. 3.  
c. 44.



Year of  
R O M E  
CCCIV.

Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

to the subject of her errand. But the nurse, equally faithful and prudent, not only rejected the proposal with horror, but kept now a more watchful eye upon her charge than ever. Appius learned with grief, that it was impossible either to deceive or to corrupt her.

However, his passion growing still more furious by the difficulties it met with, he had recourse to another stratagem, more bold and impudent, and which, if it succeeded, would put Virginia wholly in his power. For the execution of this new scheme he employed a client of his, named M. Claudius, a man without shame or fear, and one of those who introduce themselves to the ear of the great, by the sole merit of a base complaisance for their pleasures. This minister of the decemvir's passion, taking with him a band of fellows like himself, entered the public school where VIRGINIA was, and seizing her by the arm, would force her away to his own house, under pretence that she was the daughter of one of his slaves. He was already dragging her all in tears through the Forum, when the people, hearing a great cry, flocked about him, and being moved with so piteous a sight, obliged him to let go his hold. The villain, perceiving that he could not execute his first design, pretended that he had not meant to use any violence, but to proceed in due course of law; and he cited her to appear immediately before the decemvir. Virginia, by the new laws, was obliged to follow the claimant to the tribunal of justice, where Appius was that day

designedly alone upon the bench. The multitude all attended her, some out of curiosity to see the issue of so strange a business, and others out of affection to Icilius, who, during his tribunate, had made himself very agreeable to the people. Claudius was going instantly to open his claim; but the people full of indignation cried out, that he ought to wait till Virginia's relations, who had been sent for, were come. To this the judge consented; and Numitorius, the uncle of the young woman, arrived soon after with a great number of his kinsmen and friends.

Silence being then made, Claudius set forth, that Virginia was born in his house; that she was privately stolen away by a slave her mother, who, to conceal her theft, had pretended to be delivered of a dead child: but that it had since been discovered that she had sold this girl to Virginius's wife, who was barren, and who, being uneasy at having no child, had made Virginia pass for her daughter: that he would soon produce undeniable testimonies of what he advanced; that in the meanwhile it was but just that a slave should go with her master; and that he would give good security for her appearance again, if Virginius, at his return, still pretended to be her real father.

II. NUMITORIUS presently saw that there was somebody of much greater weight and power than Claudius at the bottom of this contrivance; but he prudently concealed his suspicions, and represented to the decemvir with a great deal of calmness, that his niece's father was absent

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.

D. Hal. B.  
11. p. 711.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

Livy, B. 3.  
c. 44.

in the service of his country; that it was highly unjust to dispute a citizen's right to his very children, when he was not present to assert it; that Virginus, upon notice, would not fail to be at Rome in two days, till whose return it was but fitting that her uncle should have the care of her. Numitorius offered to give any security whatsoever for producing her again; but he said it was not reasonable to trust the daughter of Virginus in the house of such a one as Claudius, where her honour would be in danger even more than her liberty. He added, that what he demanded was conformable to the laws, which ordained, that during a law-suit, and before a definitive sentence, the plaintive should not disturb the defendant in his possession.

The whole assembly showed by their applauses, that they thought this request to be perfectly just. Appius having caused silence to be proclaimed, and affecting the impartiality becoming a judge, declared that he should always be the protector of so reasonable a law, and which he himself had inserted in the twelve tables: but that in the present dispute there were some particular circumstances which altered the case; that here were two persons claiming, one as a father, the other as a master; that if he who pretended to be the father of Virginia were present, he indeed ought to be allowed the possession of her till the decision of the contest, but that, he being absent, the person who claimed her as his slave ought to have that possession, giving good security,

D. Hal. B.  
11. p. 713.



however, to produce her again at the return of him who was called her father. This said, he ordered Virginia to be delivered up to Claudius.

All the people present exclaimed against so iniquitous a decree; and nothing was to be heard but cries of indignation, shrieks and lamentations. The women with tears in their eyes gathered round Virginia, and placed her in the midst of them, as if they meant to defend her. In this instant Icilius, to whom she had been promised in marriage, came running into the Forum with fury in his eyes, and loudly demanding who he was that durst to lay violent hands upon a free women, and what were his pretensions? Appius, who perceived him breaking through the crowd, ordered a lictor to oppose his passage, and to tell him that the affair was already judged. But nothing could stop the enraged lover; he forced his way up to the tribunal, and taking Virginia in his arms, "No, Appius," he cried, "nothing but death shall separate me from her. If thou wouldest have thy vile artifices concealed, thou must murder me. Assemble all thy lictors, and, if thou wilt, those of thy colleagues too; bid them prepare their rods and axes; but to my last breath I will defend her honour. Have you deprived the Romans of the protection of their tribunes, that you may subject their wives and daughters to your lewdness? Go on to exercise your rage in scourging and slaughtering the Roman citizens, but let modesty and chastity escape your tyranny. Virginia is mine, she is promised to

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.

Livy, B. 3.  
c. 45.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

me, and I expect to marry a virgin pure and unspotted. I will receive her from no man's hand's but her father's. If in his absence any attempt be made to do her violence, I will implore the aid of the Roman people for my wife; Virginus will demand the assistance of his fellow-soldiers for his daughter; and both gods and men will be on our side."

The people, equally moved with his misfortune and his courage, fell upon the lictors, who were forcing away Virginia, dispersed them, and obliged Claudius himself to seek refuge at Appius's feet. The assembly was full of noise and confusion. The tumult increased by the arrival of those who flocked to the Forum from all parts of the city. Appius, quite stunned at seeing to what a degree the people were incensed against him, was for some time in doubt what measures to take. At length, having caused silence to be made: "It is well known" (said he) "Icilius only wants an opportunity of restoring the tribuneship by means of a sedition. But that he may have no pretence of complaint, I am willing to wait for Virginus's return till to-morrow. Let his friends take care to give him notice. It is not above four hours journey from hence to the camp. I will prevail upon Claudius to yield up somewhat of his right for the sake of the public peace, and to let the girl remain in liberty till the return of the man she imagines to be her father. But in case Virginus does not appear to-morrow, I would have Icilius know that I shall not want any assistance from my col-

Livy, B. 3.  
c. 46.

leagues to put my decree in execution, or to keep in awe such seditious spirits as he."

Claudius, feigning to admit unwillingly of this delay, requested that at least Icilius might give security for producing Virginia on the morrow. The people all around immediately held up their hands, and every man offered eagerly to be his security. Icilius, touched with the affection of his fellow-citizens, broke into tears, while he returned them thanks. "To-morrow," said he, "if there be occasion, we will make use of your assistance. To-day, I hope they will be satisfied with my security and that of all Virginia's relations."

Appius, though intoxicated with his passion, durst not refuse such bail: but he privately despatched a messenger to his colleagues who commanded the army, entreating them to arrest Virginius upon some pretence or other, and to keep him in close prison. He thought that the father not appearing at the time appointed, he might then with a good colour deliver up the daughter into Claudius's hands: but his courier arrived at the camp too late. Numitorius's son and a brother of Icilius had been beforehand with him; and Virginius, upon the first notice of his daughter's danger, pretending the sudden death of some relation, had obtained leave to return to Rome, and was already gone. And he had the good fortune to escape two parties of horse, one which, upon the receipt of Appius's letter, the decemvirs sent after him to stop him, and the other, which Appius, with the same design, had

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

D. Hal. B.  
11. p. 714.  
Livy, B. 3.  
c. 46.



Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

Livy, B. 3.  
c. 47.

placed in the road that led from the city to the camp.

He appeared the next morning in the Forum pierced to the heart with grief, and leading by the hand his daughter all drowned in tears: she was accompanied by her kinswomen, and by a great number of other ladies. Virginius, as he passed along, addressed himself to his fellow citizens with an air of dignity, that seemed to demand their assistance, rather than to implore it. "To what purpose," said he, "do we every day expose our lives in war to defend our wives and children from a foreign enemy, if our tyrants at Rome exercise upon them all the violence that can be suffered in a city taken by assault?" Icilius, quite furious with love and resentment, inveighed loudly against Appius, without any reserve: but the silent tears of the whole train of women affected the multitude more than any words or exclamations.

III. APPIUS heard with extreme surprise that Virginius was in the Forum. Full of rage and vexation, he repaired instantly thither, with a numerous <sup>1</sup>guard of his dependents and crea-

D. Hal. B.  
11. p. 715.

<sup>1</sup> Mr. Vertot, B. 5. p. 71. quotes D. Hal. as saying, B. 11. that Appius, to prevent all resistance, ordered down the troops [2 legions] that were in the capitol, and that they took possession of the Forum. And he soon after quotes Livy, as telling us, that the multitude were attacked by Appius's soldiers. There is nothing either in Dion. Hal. or Livy, from whence it can be gathered, that Appius employed any soldiers on this occasion. It is true, Dion. Hal. represents him saying to the people, that the troops in the capitol were not placed there only for defence against a foreign enemy, but also to prevent riots in the city. And Livy (c. 48.) makes him insinuate to the

tures. Having ascended his tribunal, he bid Claudius open his demand, and proceed in his action. Claudius then repeated what he had said the day before, and at the same time produced the slave, whom he had suborned, and who, out of fear of her master, declared, that she had sold Virginia to Virginius's wife. The claimant added, that he had many other credible witnesses to produce, if there were occasion; and that he humbly hoped, his being the judge's client would not be thought a good reason for refusing him that justice, which every other man would obtain in the like case: and he concluded, with entreating the decemvir not to suffer himself to be influenced by his compassion, to the prejudice of truth and right.

The friends and relations of Virginia, to destroy this imposture, represented, that her mother Numitoria could have had no temptation to practise such a fraud as was pretended; that people, in order to terrify them, that he has brought down some armed men from the capitol. But we do not find in either of those two historians, that these armed men ever appeared. D. Hal. says, p. 714. that Appius came to his tribunal, *μετα πολλῆς ὄψεως*, but it was *ἐταίρων καὶ πελατῶν*, (a great company of his friends and clients) as appears by the context. And Livy (c. 49.) having mentioned the resistance which Appius's lictors met with when they would have seized Icilius, adds, *Quum locus adeundi apparitoribus non daretur, ipse cum agmine patriciorum juvenum per turbam vadens in vincula duci jubet*. Appius, the most despotic magistrate that had appeared in Rome since Tarquin, did not venture to exercise so avowed a tyranny, as to employ his armed soldiers to attack unarmed citizens. This is evident, not only from what the historians say of those who aided and abetted him, but from his being worsted in the conflict with his adversaries.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.  
D. Hal. B.  
11. p. 715,  
716.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

she was married very young, and to a man almost as young as herself; that she bore a child in a very few years after her marriage; that if she had proved barren, and had been minded to introduce a stranger into her family, she would never have taken the child of a slave, and certainly not a girl, when she might as easily have had a boy. That as to those many credible witnesses which Claudius talked of producing, it was highly improbable that a transaction which required so much secrecy should be imparted to many persons, when one was sufficient for the purpose. That granting Numitoria to have been guilty of so strange a folly, it was yet stranger that an affair entrusted with so many confidants should remain so long a secret. That it was impossible to account why Claudius himself should be so profoundly silent in this affair for fifteen years, and should never declare his pretensions till the young woman was become marriageable, and appeared in that wonderful degree of beauty.

At these words all eyes were turned upon Virginia; the modesty of her countenance, her tears, her youth, her innocence, and above all, her amazing beauty, which, clouded as it was with excessive grief, had yet a surpassing lustre, filled every breast with the most tender compassion. Nor could they help reflecting with extreme concern and terror, that if the laws of liberty were thus violated in the person of this young maid, there could be no longer any security for wives or daughters against the like dishonour. For every body was already



convinced, that the allegations of Claudius and his witness were mere imposture, and the wicked contrivance of some dignified villain, who thought himself at liberty to do whatever he pleased.

But to those arguments, showing the improbability of what Claudius had alleged, Virginius added, that he had witnesses of unquestionable credit ready, (whom he named, and whom he desired might be strictly examined) who would testify, some, that they had seen Numitoria big with child, others that they had been present when she was delivered of this daughter, and others, that they had seen her give suck to young Virginia, which she could not have done, had she been barren, as Claudius pretended.

Virginius was still going on with his plea, when Appius perceiving the impression that was made upon the assembly by those unanswerable reasons which had been offered, and being determined at any rate to accomplish his enterprize, interrupted him, and commanded silence, signifying, that he himself had something to say. All the people being curious and anxious to know what it was, were presently still, and listened to him with attention.

The decemvir having first cast his eyes on all sides to observe his strength, and how his friends were posted, “Virginius,” said he, “I must acquaint you, and all who are here present, that this is not the first time I have heard of this affair. I was told of it long before my election to the decemvirate. Claudius’s father,

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

at his death, desired me to be guardian to his son; (his ancestors, you know, were always clients of our family.) Intimations were soon after given me, that I ought to claim this young slave in right of my ward. Hereupon I examined into the matter, and found the fact to be exactly as Claudius has represented it. However, I did not think it became me to meddle in an affair of this nature, but chose rather to leave it for him to manage when he should come of age, when he might either take back the girl, or accept of a sum of money for her from the parties who had bred her up. Our civil feuds, and the hurry of public business, hindered me afterwards from giving any attention to the concerns of Claudius. He has applied himself of late, I suppose, to examine into the state of his affairs, and he finds this girl to belong to him, as part of his inheritance. I can see nothing unjust or unreasonable in the demand he makes, to have the daughter of his slave restored to him. It would have been better indeed if the thing could some way or other have been compromised. But since a suit has been commenced upon it, I am obliged in conscience to give testimony in his favour; and upon what I myself know, I do, as judge, pronounce him lawful master of this girl."

Livy, B. 3.  
c. 47.

Virginus, provoked to the highest pitch at so unjust and cruel a sentence, no longer kept any measures with the decemvir. Holding up his hand at him, " Appius, I promised my daughter to Icilius, and not to thee. I edu-

cated her for honourable marriage, and not to be a prey to an infamous ravisher. What! Is the lawless lust of savage beasts to prevail among us? How the citizens here will bear with these things, I know not; but I trust that those who are in arms will not endure them."

Year of  
R O M E  
CCCIV.  
Ref. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

The people at these words set up a loud cry full of indignation, and they seemed at first as if they would oppose the execution of Appius's decree. But the decemvir with a threatening voice told them, that he was not unacquainted with the seditious meetings which had been held the night before, nor with the plots there laid to cause an insurrection, but that he wanted neither power nor resolution to chastise those who should dare to disturb the public peace; that the soldiers in the capitol had not been placed there only for defence against the foreign enemy: and he advised them therefore to be careful of their behaviour, and to retire quietly to their own houses. "And you," said he (speaking to one of his lictors) "go put aside the crowd, and make room for a master to lay hold of his slave."

Livy, B. 3.  
c. 48.

D. Hal. B.  
11. p. 717.

The multitude, terrified at these menaces, and the wrathful manner in which they were uttered, instantly gave back, and left the unhappy Virginia standing by herself, a helpless prey to injustice. Virginius, who then saw that there was no other remedy, turning towards the decemvir, in humble manner thus addressed him: "Pardon, APPIUS, the unguarded words which escaped from me in the anguish



Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

D. Hal. B.  
11. p. 718.  
Livy, B, 3.  
c. 48.

of a fatherly grief, and allow me, if you please, before Claudius takes away the girl, privately to ask, in her presence, some questions of her nurse, that I may be set right in this matter, and, in case Virginia be not really my daughter, may return to the camp in less affliction."

Appius readily granted him this request, upon condition however, that it should be in Claudius's sight, and without stirring out of the Forum. Virginius, pierced to the heart with the sharpest sorrow, took his daughter, half dead, in his arms; he wiped away the tears in which her face was all bathed, embraced her, and drawing her near to some shops which were on the side of the Forum, chance directed him to a butcher's knife: having instantly seized it, "My dear daughter, this is the only way to save thy honour and thy liberty:" as he said these words he plunged the knife into her heart: then drawing it out again all smoking with her blood, he turned towards the tribunal, and with a furious voice cried out, "By this blood, APPIUS, I devote thy head to the infernal gods."

The decemvir, from his tribunal, called out, in the greatest fury, to seize him; but he with the knife in his hand, made his way through those who would have stopped him, and, being favoured by the multitude, got out of the city, mounted his horse, and took the road to the camp. In the meanwhile, Numitorius and Icilius raised a great commotion in Rome; they staid by the dead body of Virginia, showed it to the eyes of the people, and be-

sought them not to let her death go unrevenged. Crowds flocked to the Forum from all parts; they uttered bitter exclamations against the decemvirs, and demanded the re-establishment of the ancient government, and of the tribunes. As for Appius, he was now returned to his own house. He had waded through an ocean of wickedness, to reach a prize which escaped him for ever, in the very moment he thought to take possession of it. He had been a spectator of the murder of her, whom he loved to excess, a murder of which he himself was the cause; and by his last stroke of tyranny had made sure of the extreme hatred and indignation of the Roman people. Stung with these reflections, he seemed to have quite lost his reason. Instead of endeavouring to pacify the multitude, he sent his lictors to seize Icilius and carry away the dead body from the Forum. The people opposed the execution of his orders, and, being now urged to fury, fell upon his lictors, broke their fasces, and drove them out of the Forum. Appius hereupon getting together, as fast as he could, a great number of his friends and clients, came in person to support his authority. But Valerius and Horatius, those sworn enemies of the decemvirs, having had notice of his motion, had put themselves at the head of a band of brave young men, marched them into the Forum, and placed them round the body of Virginia. At first the two parties discharged their fury against each other in mutual reproaches and invectives: but they soon

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.

D. Hal. B.  
11. p. 719.  
Livy, B. 3.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

after came to blows. Appius was worsted and repulsed. In this perplexity, not knowing what else to do, he got up into the temple of Vulcan, and there took upon him to act the part of a tribune of the people, demanding that Valerius and Horatius should be thrown headlong from the Tarpeian rock, as disturbers of the public peace : but the multitude hissed at so senseless a discourse ; and in the meantime Valerius, having caused the body of Virginia to be carried to the top of a flight of steps, where the people might see it, was from the same eminence inveighing against Appius. Most of the decemvir's auditors soon left him to go to Valerius, who thereupon assuming the authority of a magistrate, commanded the lictors to pay no more attendance on a private person. And now Appius, terrified at the desertion of many of his creatures whom he saw changing sides, believed his life to be in danger ; hiding therefore his face with his robe he fled, and took refuge in a neighbouring house. At this juncture Oppius, the plebeian decemvir, rushed from another side into the Forum to succour his colleague. But he came too late. Force had got the better of authority. He judged therefore that the wisest method in the present exigence was to assemble the senate, and this in a great measure quieted the people ; for they hoped that the decemvirate would speedily be abolished. But those of the fathers who happened to be in Rome were most of them friends to the present government ; they only ordered the people to behave



themselves peaceably, and commissioned some young members of their body to go to the camp near the Algidus, to prevent the sedition which Virginius might excite there. In the meantime Valerius and Horatius caused the body of Virginia to be laid in an open litter, and to be carried in great pomp through all the high streets, in order to excite the compassion of the citizens, and increase their detestation of the decemvirs. Men and women, old and young, married and unmarried, all ran out of their houses to see this funeral procession, and they all bewailed her fatal beauty, and her untimely death. The women with tears in their eyes threw, some of them flowers upon the litter, others the ribbons from their heads, to adorn it; others cast their girdles, their fillets, wreaths of their hair upon it. The men also contributed, every one, some little present.

The whole city would have revolted immediately from the government, had not the decemvirs been actually commanding armies, and had not Valerius and Horatius (who managed this business, and who hoped to compass their point without effusion of blood) thought it more advisable to wait and see what Virginius's return would produce in the army near the Algidus.

IV. HE entered the camp, attended by near 400 citizens, and still holding in his hand the bloody knife with which he had killed his daughter. The soldiers at this strange sight flocked to him from all quarters. Virginius

Year of  
R O M E  
CCCIV.  
Bef. J.C.  
Four hundred forty-eight.

Third Decemvirate.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.  
D. Hal. B.  
11. p. 720.  
& seq.  
Livy, B. 3.  
c. 50.

got upon a small eminence, from whence he might the more easily be heard: his face was drowned in tears, and grief for a while tied his tongue. At length breaking his mournful silence, he related to them the whole tragical story, and then raising his hands to heaven, “ I call you to witness, immortal gods, that Appius alone is guilty of the bloody deed I was forced to commit. And you, my fellow-soldiers, I conjure you not to drive me out of your company as a parricide and the murderer of my daughter. I would willingly have sacrificed my own life to have preserved hers, if she could have lived with her honour and her liberty. But finding that the tyrant was determined to make her a slave, that he might have an opportunity to dishonour her, pity alone made me cruel: I rather chose to lose my daughter than keep her with shame; but I would not have outlived her one moment, had I not hoped to revenge her death by your assistance.”

The centurions and soldiers, filled with compassion for his misfortune, and with indignation against the decemvir, all assured him, that they would not fail him in any thing he should undertake against Appius. Nay, they resolved to extend their resentment to all the decemvirs, and to shake off the yoke of a dominion that was now grown into an avowed tyranny. The decemvirs who commanded the army being informed of Virginius’s return, and of the disposition of the soldiers, sent for him with design to secure him. No obedience was paid

to their orders. The troops were all eager to return to Rome; nothing but their military oath withheld them. They thought they could not leave their generals without offending the gods, and dishonouring themselves. Virginius, who burned with impatience to revenge himself of Appius, quickly removed their scruple, by assuring them that a Roman could never be under any obligation to obey usurpers and tyrants; that the decemvirs were notoriously such, and that therefore to submit to them would not be obedience and piety, but madness and superstition. There needed no more to satisfy the conscience of the soldiers. They immediately flew in a kind of fury to their arms, snatched up their ensigns, and under the conduct of their respective centurions took the way to Rome. The decemvirs, startled at so general a desertion, ran to stop them: but wherever they turned themselves, they found only exasperated spirits, who breathed nothing but vengeance. If the decemvirs spoke to them in gentle terms, they received no answer. If they pretended to threaten or command, the soldiers sternly answered, "We are men, we have swords in our hands."

The army entered Rome about evening, without making the least disturbance, and without so much as a soldier's stirring out of his rank. As they passed along, they assured their friends and relations that they were returned only to destroy tyranny. All the troops marched quietly through the city to Mount Aventine, fully resolved not to separate

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.  
D. Hal. B.  
11. p. 723.

Livy, B. 3.  
c. 50.



Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.  
D. Hl. B.  
11. p. 724.

Livy, B. 3.  
c. 50.

till they had obtained the deposal of the decemvirs, and the restoration of the tribuneship.

V. APPIUS, terrified with remorse of conscience, and with the revolt of the army, durst not appear in public. But Oppius, his colleague, had recourse in this distress to the authority of the senate, which he convened with all expedition.

The senators thought it by no means advisable to proceed in a way of severity, because they themselves had given occasion to the sedition. The result of their debate was to commission Sp. Tarpeius, C. Julius, and P. Sulpitius, all three consulars, to go to Mount Aventine and demand of the soldiers, “By whose orders they had left their camp? what their intent was in possessing themselves of Mount Aventine? and why, quitting the war begun against the enemy, they had invaded their own country?”

The soldiers did not want an answer, but they wanted a speaker, for as yet they had not chosen themselves a head; and no one man among them would venture to act as chief in this revolt. They remained for some time in silence, but at length they all cried out with one voice, “Let Valerius and Horatius be sent to us, we will give an answer to the senate by them.”

As soon as the three commissioners were gone, Virginius took notice to the soldiers how much they had been puzzled, even in an affair of no great importance, for want of a head; that the answer they had fallen upon, though

pertinent enough, had proceeded rather from casual agreement, than previous and public counsel; and he advised them therefore to choose ten persons to be over them, and to manage for them. Instantly they named him the first to that honour, but he excused himself, desiring them to reserve their good opinion of him to happier times. “No honours,” said he, “can give me pleasure while my daughter is unrevengeed, nor is it advisable for you in such a season of trouble as this is, to choose those men to be your directors and agents who are most obnoxious to the parties you are to treat with. If you think me capable of being useful to you, I shall not be less so in a private capacity.” The army hereupon appointed ten other centurions to be their governors, with the title of military tribunes.

The example of this army was followed by that employed in the war against the Æqui: for Numitorius and Icilius had gone thither, and had spirited up the soldiers to desert their generals. With colours flying they marched straight towards Rome, and having advice, by the way, of the steps taken by the troops on Mount Aventine, they in like manner, at the instigation of Icilius, (a man skilful in popular affairs) chose themselves ten military tribunes, to govern and conduct them. (What moved Icilius to give this counsel, was an apprehension, that, without such election, the ten tribunes of the other camp might be thought to have a kind of right to be appointed the ten tribunes of the commons in the next *comitia*

Year of -  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.  
Livy, B. 3.  
c. 51.

Year of  
R O M E  
CCCIV.

Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

that should be held for naming those magistrates, and he himself had a view to be one of the college.) These troops entered the city, and marched through it in the same good order, and with the same peaceable behaviour, as had been observed by the other, whom they presently after joined. And then the united armies commissioned their twenty military tribunes to elect two out of their number to be supreme over all. The choice fell upon M. Oppius and Sextus Manilius.

The senate in the meanwhile, anxious for the commonwealth, sat every day to consider of some effectual remedy for the present evil. (Such desertions were of dangerous example; and the frontiers were left exposed to the invasions of the enemy.) But the time which should have been employed in sage deliberation was wasted in strife and wrangling. The decemvirs were incessantly reproached with the murder of Sicinius, the lust of Appius, and the miscarriages in the war. At length it was concluded to send Valerius and Horatius to Mount Aventine; but then these two senators, finding that their mediation was become necessary, protested that they would not move a step so long as the decemvirs, whom they called usurpers, remained masters of the government.

The decemvirs, on the other hand, declared that they would not resign their authority till they had proposed to the people the two last tables of laws, and had got them passed; and that this was the only term fixed for the expi-



ration of their magistracy. Nay, L. Cornelius, yet a warm partizan of the present governors, advised against entering into any negotiation with the two armies, till they were returned to their former respective camps : upon which condition he was for offering the soldiers a general pardon, with an exception however to the authors of the desertion.

The soldiers on Mount Aventine receiving accounts from M. Duilius (who had been formerly a tribune) of what passed in the senate, came to a resolution to remove their camp to the Mons Sacer, a place which would put the senators in mind of the steady resolution of the commons, and make them sensible of the absolute necessity of restoring the tribuneship, in order to a reunion. Thither they marched, fortified themselves there, and observed the same good discipline for which their ancestors had been so much admired. In this decampment they were followed by such numbers of the citizens, with their wives and children, that Rome was in a manner deserted : “ What have we to do,” said they, “ in a city where neither chastity nor liberty is safe ? ” The conscript fathers, astonished as they passed to the senate-house to see the streets so thin of people, and that, except a few old men, there was scarce any body in the Forum, came now for the most part into the sentiments of Horatius and Valerius. They declared that it was madness in the decemvirs to think of retaining their authority, when they had no subjects to govern. “ What ! ” said they, “ will you adminis-

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

D. Hal. B.  
11. p. 725.

Livy, B. 3.  
c. 52.

Year of  
R. O. M. E  
CCCIV.  
Ref. J. C.  
Four hundred forty-eight.

Third Decemvirate.

ter justice to empty houses and bare walls? Are you not ashamed to see that all the citizens in the Forum scarce equal the number of your lictors? In short, you must resolve either to have no commons, or to allow them tribunes. They extorted from our forefathers that plebeian magistracy, of which they had not then experienced the benefit; and do you imagine, that when they have tasted the sweets of it, they will ever consent to part with it, and especially since your government has not been so moderate and gentle, as to make them feel no want of protection and succour?"

The decemvirs, finding that there was no remedy, promised at length to be wholly governed by the senate; they only desired, that they might not be sacrificed to the hatred of their enemies, and reminded the fathers, that it concerned them nearly not to accustom the people to shed the blood of patricians.

Livy, B. 3.  
c. 53.

VI. VALERIUS and Horatius, having brought this affair to the point they had wished, repaired to the camp, and were received by the soldiers as their protectors. The army, by the mouth of Icilius, demanded the restoration of their tribunes, and of their privilege of appeal, and an amnesty for all who had left the camp without permission from their generals. But first of all they required that the decemvirs should be delivered into their hands; and they loudly threatened to burn them all alive.

The two mediators were not more favourable to those magistrates than the people themselves; but they prosecuted the design of de-

stroying them with more art. At the same time that, in general terms, they exhorted the multitude not to be governed by cruel thoughts, (bidding them remember that they had more occasion for a shield than a sword) they insinuated to them, that when they were in possession again of their rights, and when their tribunes, their laws, and assemblies, were restored to them, they would then have it in their power to do justice to themselves.

The multitude, fully persuaded that no tribunes whatsoever could have more zeal for the interest of the commons than Valerius and Horatius, trusted every thing to their management; who, returning without delay to the senate, reported the demands of the army; but said nothing of its bloody designs against the decemvirs. These magistrates hearing no mention of their punishment, readily yielded to all that was asked; only Appius, cruel by nature, and judging of other men's hatred to him by his to them, said aloud, "I am not ignorant of the fate I am to expect. The attack is only deferred till my enemies have got arms in their hands. Nothing but my blood will satisfy their malice. Be it so. I am ready nevertheless to resign the decemvirate, and I care not how soon I do it." Hereupon the senate passed a decree, "that the decemvirs should instantly depose themselves; that the pontifex maximus should hold the *comitia* for electing tribunes, and that no notice<sup>2</sup> should

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Third Decemvirate.

Livy, B. 3.  
c. 54.

<sup>2</sup> Livy makes this decree and another to be the acts of the commons, presently after they had chosen their tribunes.



Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Third De-  
cemvirate.

be hereafter taken of the desertion of the soldiers from their generals, or the retreat of the citizens to the Mons Sacer." Submitting to this decree, the decemvirs immediately repaired to the Forum, and there abdicated their magistracy, to the great joy of the city. The news of their abdication was presently carried by Valerius and Horatius to the camp. "Return, soldiers, to your country, your household-gods, your wives and children; and may this return be happy to you and to the commonwealth!" Instantly the army snatched up their ensigns, and exulting with joy returned to Rome. But before they separated, they marched a second time, accompanied by the rest of the commons, to Mount Aventine, where they made an election of their tribunes. A. Virginius, the father of the hapless Virginia, Numitorius her uncle, and Icilius, to whom she had been betrothed, were the first chosen. Then C. Sicinius, M. Duilius, M. Titinius, M. Pomponius, C. Apronius, P. Villius, and C. Oppius. An *inter-rex* was afterwards created, who held an assembly by centuries, and, according to the votes of the people, named L. Valerius and M. Horatius to the consulship.

VII. THE administration of these consuls was wholly popular, and the plebeians obtained from them what they could hardly have hoped from their very tribunes themselves. In the first place: whereas it was a disputable point of law, whether the PLEBISCITA [the decrees of the commons] would bind the SENATORS; the consuls now passed a LAW in COMITIA CENTURIATA, importing, that what the COM-

MONS should enact, in COMITIA TRIBUTA, should bind the whole ROMAN PEOPLE. By which law (says Livy) the bills of the tribunes were armed with a very dangerous weapon<sup>3</sup>.

<sup>3</sup> Omnium primùm, quum veluti in controverso jure esset, tenerentur PATRES plebiscitis, legem CENTURIATIS COMITIIS tulere, ut quod TRIBUTIM PLEBES jussisset, POPULUM teneret; qua lege tribunitiis rogationibus telum acerrimum datum est. Livy, L. iii. c. 55.

Dionysius (L. xi. p. 726.) writes, "That this LAW put an end to the disputes which had subsisted between the patricians and plebeians, concerning the *plebiscita*, made in the COMITIA TRIBUTA, which the patricians would not submit to, nor allow to be binding on any but plebeians." The historian goes on, "It has been already said, that in the *comitia tributa*, the plebeians and the poor had the better of the patricians; but that in the *comitia centuriata* the patricians, though much inferior in number to the plebeians, were superior to them in strength."

[This last assertion, how often soever he may have repeated it, I apprehend to be a great mistake. He seems here to make the terms patrician and plebeian equivalent to rich and poor. The richer citizens had doubtless a superiority of strength in the *comitia* by centuries; but the patricians had not. The majority of the voters in the majority of the centuries were unquestionably plebeians, and the patricians were overpowered, as well as outnumbered by the plebeians in the *comitia centuriata*. Had it not been so, had the patricians, in the *centuriata comitia*, been superior in strength to the plebeians, how consummately ridiculous would be Livy's admiration of the virtue of the Roman people, for their choosing to the military tribuneship PATRICIANS only, (Y. of R. 309.) though the plebeians were qualified by law to be chosen to that magistracy! Livy, B. iv. c. 6.

As to the memorable LAW (called Lex Horatia) now enacted, by the *comitia centuriata*, Dionysius would have better satisfied the curiosity of his readers, if he had given them some instances of PLEBISCITA made in COMITIA by TRIBES, to which the PATRICIANS had refused to submit. In his seventh book, he mentions a *plebiscitum*, that made

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Sixtieth  
Consulship.  
D. Hal. B.  
11. p. 725.  
Livy, B. 3.  
c. 55.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Sixtieth  
Consulship.

Vid. supra,  
p. 189, 190.

The *Lex Valeria*, touching appeals to the assembly of the people, was confirmed anew, and

it penal to interrupt a tribune, when speaking to an assembly of the people. And he tells us, that this *plebiscitum* was followed by much altercation between the consuls and the tribunes. And that the senate and the commons mutually refused to ratify each other's decrees.

Μετὰ τῆτο πολλαὶ καὶ περὶ πολλῶν ἐγίνοντο τοῖς δημάρχοις πρὸς τὰς ὑπάτους ἀντιλογίαι, καὶ ὅτε ὁ δῆμος ὅποσα ἡ βελὴ ψηφίσαιτο κύρια ἡγεῖτο, οὔτε ὧν ὁ δῆμος γνοίῃ τῇ βελὴ φίλιόν τι ἦν ἀντιπαρατεταμένοι δὲ καὶ δι' ὑποψίας ἔχοντες ἀλλήλους διετέλυν. D. Hal. L. vii. p. 432.

Deinde multæ variisque de rebus inter tribunos et Coss. altercationes sunt sequutæ, et neque ipsa plebs senatus-consulta rata habebat, neque senatus ipse ulla plebiscita approbabat. Sed magnâ contentione utrique alteris adversabantur, & se invicem suspectos habebant.

But these things passed in the next year after the erection of the tribuneship, and before the introduction of *COMITIA TRIBUTA*, even according to the Greek historian's own account. Here then a question arises. In what *comitia* were those *plebiscita* made, which were anterior to the first assembly by tribes? Not in the *centuriata*: the tribunes never attempted to hold those assemblies. And as to the *curiata*, we are told, that these could not be held but by a patrician magistrate, nor without a previous decree of the senate, nor without sacrifices and auspicia, the care and management of which were appropriated to the patricians. And we are likewise told, that the tribunes, when they held assemblies of the citizens for making laws, observed none of these ceremonies and formalities. Particularly, with regard to the senate's authorizing their proceedings, Appius Claudius (in the debate on the affair of Coriolanus) enumerating, to the fathers, the usurpations of the plebeians and their tribunes, mentions this among the rest, they propose laws without consulting you, and they pass them without your approbation, Νόμους τε ἀπροβελύτους εἰσφέρει, καὶ τῆτας ἐπιψηφίζει τῆς ὑμετέρας γνώμης δίχα. D. Hal. L. vii. p. 455. And this, as I before observed, was anterior to the introduction of *comitia tributa*. Shall we not therefore be obliged to say, that though the assemblies of the *curiæ* could not, by the ori-

Vid. supra,  
p. 235, &  
seq.



strengthened with another law, forbidding the future creation of any magistrate, from whose

ginal constitution of the state, be legally held, and were not held in the first years of the commonwealth, nor perhaps after the introduction of *comitia tributa*, without the conditions above specified; yet the tribunes, soon after the institution of that magistracy, did, without any previous *senatus-consultum*, convene the plebeians of the *curiæ*, and, in those assemblies, did, without auspices or any religious ceremonies, enact laws, which were called *plebiscita*?

By the treaty of re-union (on the Mons Sacer) the tribunes were authorized to hold *CONCILIA* of the commons; and they seem to have turned these *concilia* into *COMITIA* by *CURIÆ*, as has been represented above, p. 14, 15. But it does not fully appear whether the senators and other patricians, who were excluded the *concilia* of the commons, were suffered to be present, and vote in their *comitia*. Dionysius, in the passage just referred to, represents the tribunes as very expeditious in getting their *plebiscitum* passed, lest the consuls should come and oppose it. But by opposition here, he may possibly mean an opposition by violence, disturbing the assembly, and hindering it from concluding any thing; for this was no uncommon method with the patricians, when they disliked a bill proposed by the tribunes.

A SECOND difficulty is thrown in our way by what Dionysius says of the disputes concerning the *PLEBISCITA* made in the *COMITIA* by *TRIBES*, and of the patricians refusing to submit to them. I do not recal any one *plebiscitum*, by him mentioned, as made, before this time, in *comitia tributa*, except the judgments of the *TRIBES* in criminal and capital causes. And these judgments did all take place according to his own account. Coriolanus went into exile pursuant to the sentence against him; Menenius paid the fine to which he was condemned; Servilius was acquitted; the sureties for the appearance of Cæso Quinctius, upon his running away to avoid trial, paid the money they stood bound for to the public. So that when the historian says, that the patricians refused to submit to the *PLEBISCITA*, it is hard to guess what he means, unless

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Sixtieth  
Consulship.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Sixtieth  
Consulship.

judgments an appeal should not lie to that assembly, and permitting any person to kill the

it be, that before the Horatian law the patricians did not recognize the *COMITIA TRIBUTA*, held by the *TRIBUNES*, as a legal legislature, though they submitted, through necessity, to all their decrees. In the case of Cæso Quinctius (year of Rome 292.) Dionysius (L. x. p. 631.) differing from Livy, who makes Cæso humble himself so far as to solicit the favour of the multitude, represents him disowning the jurisdiction of the court, and refusing to plead; yet the historian introduces L. Quinctius Cincinnatus, the father of the accused, pleading earnestly for his son to the assembly.

It may be said, that this was the pure effect of necessity, and ought not to be construed into a recognizing the assembly for a lawful judicature. For in the year 298 (six years after the affair of Cæso) on occasion of the tribunes citing the consuls to appear in judgment before the tribes, the consuls openly affirm, that the tribunes have no power to summon thither, even the most inconsiderable of the patricians, without a previous *senatus-consultum* for that purpose. D. H. L. x. p. 661. And in the contest about Volero's bill (year of Rome 282.) Appius Claudius (then consul) declared that he would for ever oppose the enacting of any law, which had not first passed the examination and approbation of the senate. And the conclusion of that contest was :—The senate made a decree, authorizing the people to give their suffrages upon the bill, and then the bill was by the people passed into a law. D. Hal. L. ix. p. 602.

It is said above (p. 127.) that this law was enacted by the *comitia centuriata*. Several reasons may be given in support of that opinion. First, the validity of this law was never disputed; in the next place it underwent the form of a previous *senatus-consultum*, and then, thirdly, it seems probable, at least, (for the reasons given in the discourse at the end of Chap. xiii.) that there were no *comitia tributa* before VOLERO's law was enacted.

But let us suppose, on the authority of Dionysius, that *comitia tributa* were in use from the time of Coriolanus; and that all the capital trials, which the historian speaks

man who should attempt such a creation. To these laws was added a regulation importing

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Sixtieth  
Consulship.

of, as between that time and Volero's tribuneship, and all the capital trials from Volero's tribuneship to the consulship of Valerius and Horatius, were in assemblies of the tribes, and that even Volero's law was enacted in one of those assemblies: what will follow from these facts, compared with the passages just cited from the historian? Seemingly, at least, the consequence will be, that before the Horatian law, there were two sorts of *plebiscita*: some that were passed in *comitia*, held by the tribunes, without previously consulting the senate; others, that were preceded by an authorizing decree of the fathers, as in the case of Coriolanus, and in that of Volero's bill. That to the former sort the patricians would not submit, but did submit to the latter. And that this is the reason, why we read of no opposition given to the execution of those sentences, which are said by Dionysius to have been passed against certain consulars, and other great men, by the *comitia tributa*, held by the tribunes: we may suppose, that these assemblies had been authorized by *senatus-consulta* (though not mentioned by the historian) to try and judge those persons. And then it will seem that the Horatian law was enacted purely to give to the *plebiscita*, that should be made in *comitia tributa*, without previously consulting the senate, the same force as was allowed to those which had been made in the like assemblies, authorized by a decree of the fathers.

According to Livy (L. iii. c. 54.) the commons had no sooner recovered their tribunes (upon the abdication of the decemvirs) but to law-making they went with all vehemence, even before they returned to their houses (for they were then encamped without the city.) *Tribunatu inito L. Icilius extemplo PLEBEM ROGAVIT, et PLEBS SCIVIT, ne cui fraudi esset secessio ab decemviris facta. Confestim de consulibus creandis cum provocatione M. Duilius rogationem pertulit. Ea omnia in pratis Flaminiis CONCILIO PLEBIS acta.*

If I might here hazard a conjecture, I would say, that these proceedings, which were closely followed by the *Lex Horatia*, were the immediate occasion of this LAW's being



Year of  
R. O. M. E.  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Sixtieth  
Consulship.

that the *senatus-consulta*, which were often suppressed or altered by the consuls, should for

enacted. That when Livy says, "*Ea omnia CONCILIO PLEBIS acta*," the words *concilio plebis* are not equivalent to *comitiis tributis*. And that the new law, while it gave the PLEBISCITA (the decrees of the commons) a force equal to that of law made in the *comitia centuriata*, confined this privilege to such *plebiscita*, as should be made *TRIBUTIM, i. e. in comitia tributa*, and did not extend it to decrees that might be made *concilio plebis*. Quum veluti in controverso jure esset, tenerentur ne patres PLEBISCITIS, legem centuriatis comitiis tulere, ut quod *TRIBUTIM plebes* jussisset *populum* teneret.

Before the introduction of *comitia tributa*, there were unquestionably *CONCILIA PLEBIS*, which assumed the power of legislation; and I have not observed any cogent reason for believing, that there were no such *concilia* after the assemblies by tribes were brought into use.

Should it be asked, what the difference was between *COMITIA TRIBUTA* held by the tribunes and *CONCILIA PLEBIS*, I should say, that, from the former only the senators were excluded; but that all the patricians were excluded from the latter. The latter therefore was an assembly of the commons, the former an assembly of the people; which people nevertheless is sometimes called *plebs*. *Plebs est cæteri cives sine senatoribus. Digest. L. 50. T. 16. N. 238.*

It would seem that the senators (in these times at least) were not allowed to vote in the *comitia tributa*, except when these assemblies were held by one of the *magistratus majores*; and that then they were held with *auspicia*. *Tributa comitia si a plebeis magistratibus, hoc est a tribuno plebis et ædile plebis facta sint, sine auspiciis (ut ait Dionysius) esse facta: sin a patriciis magistratibus cum auspiciis. Manut. de Com. Rom. cap. ix.*

Dr. Middleton (in his Treatise on the ROMAN SENATE, p. 119.) speaks too generally, when he says, that the tribunes excluded them [the senate] from any share or influence in the assemblies of their tribes. It would have been exact, I believe, if he had said, from THEIR assemblies of the tribes, that is, from the *comitia tributa* HELD

the future be transmitted to the ædiles, and preserved in the temple of Ceres.

VIII. THOUGH the patricians in general greatly disliked all these proceedings, yet be-  
by the TRIBUNES. But we find in the year 307 (three years only after enacting the *Lex Horatia*,) the CONSULS holding the *comitia tributa*, on occasion of the dispute between the Ardeates and Aricini, who had referred their cause to the arbitration of the Roman people. Aricini atque Ardeates de ambiguo agro quum sæpe bello certassent—judicem populum Romanum cepere.—Concilio populi a magistratibus dato—quum TRIBUS vocari et populum inire suffragium oporteret, consurgit P. Scaptius—si licet, inquit, CONSULES de republica dicere, &c. Quum, ut vanum, eum negarent CONSULES audiendum esse, vociferantemque prodi publicam causam *summoveri jussissent*, tribunos appellat, &c. Liv. B. 4. c. 71.

I thought to have mentioned some particulars in the history of these first years of the republic, that do by no means correspond to the rules laid down by the learned as generally observed in the holding the several sorts of *comitia*, and doing business therein: but I am glad to retire from these discussions under cover of a passage in the excellent work before referred to, entitled ELEMENTS OF CIVIL LAW. In page 185, the learned, judicious, and candid author, after speaking of the differences between LEX and PLEBISCITUM, and between the *comitia curiata* and *comitia centuriata*, proceeds thus: "I judged it proper that my reader should snatch, in a short and comprehensive view, this part of the Roman constitution. He will more easily make himself master of particulars, even when they contradict or vary from his general system: and I am persuaded, that many things might be taught more successfully, if both writers and readers would sometimes consider that which they set off with, not as a part of the building, but only as so much scaffolding, to be laid aside afterwards, or thrown by as useless and unnecessary. In the civil history of a people, this doctrine may have fairer play, because the constitution of a country, at its final settlement, is best apprehended by the difference it carries with it, from the same constitution, when it first began to be moulded."

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Sixtieth  
Consulship.  
Vid. supr.  
p. 189, 190.



Year of  
R O M E  
CCCIV.  
Bef J. C.  
Four hun-  
dred forty-  
eight.

Sixtieth  
Consulship.

Livy, B. 3.  
c. 56.

cause hitherto they saw no particular person of their party attacked, they made no opposition to them. But the scene quickly changed. The liberty of the people and the power of the tribunes being now firmly re-established, the latter thought the favourable time come for prosecuting the decemvirs, and all the accomplices of their tyranny. Appius was the first accused. Upon a summons from Virginius (who was appointed to be the accuser) he came into the Forum, attended by a crowd of young nobles, who had been his ministers and his guard during his decemvirate. Their appearance brought afresh into the people's minds all the instances of his horrible abuse of power. Then Virginius began: "Long speeches, O Romans, are for clearing up of doubtful cases. I shall not waste your time in expatiating upon the crimes of a man whose cruelty reduced you to the necessity of taking arms to rescue yourselves from it: nor will I suffer him to add to his wicked deeds the impudence of defending them. Appius, I shall pass over the whole series of your flagitious practices during the space of two years. There is one crime only, from which if you do not instantly clear yourself, I order you to be led to prison."

"What have you to say for the sentence you passed against Virginia? Why did you, contrary to law, refuse a person, whose liberty was brought into dispute, the possession of that liberty till the suit was determined?"

Appius had no hope of assistance either from the tribunes or the people; nevertheless he



called upon the tribunes; and when, none of them interposing, the officer laid hold on him to drag him away, he cried out, "I appeal." The sound of these sacred words, (the guardians of liberty) though from a man who had so lately violated the laws of liberty, caused an universal silence. He then reminded the people of the merit of his ancestors and of his own unhappy affection to the commons, when to the great displeasure of the senate he relinquished the consulship, to make way for the decemvirate, and the establishment of the new laws; laws which were still in force, while he, the legislator himself, contrary to the tenor of them, was condemned to prison. He added, that as to his merits and demerits, it would appear what they were, when his trial should come on; that at present he pleaded the common rights of a Roman citizen, and only demanded the time necessary for preparing his defence: that if without being heard he was now sentenced to prison, he appealed once more to the tribunes, and exhorted them not to follow the example of those they hated: that if the tribunes confessed they had come to an agreement among themselves to abolish the right of appeal, he appealed from them to the people, and implored the protection of the laws just made, by joint consent of consuls and tribunes, to confirm that privilege. "What citizen can hope for any benefit from those laws, if Appius Claudius can reap none? Your conduct with regard to me will make it appear, whether this right of appeal, of which

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R O M E  
CCCIV.  
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Sixtieth  
Consulship.

Year of  
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eight.

Sixtieth  
Consulship.  
Livy, B. 3.  
c. 57.

you seem so jealous, be only the appearance of a privilege, a thing subject to the cabals and private views of the tribunes, or whether it be the real and firm support of liberty."

Virginus, in answer, said, that Appius was the single man who had nothing to do with laws or any social compact, nor ought to have any benefit from them. That having made himself perpetual decemvir, his tribunal had been the retreat and strong hold of all wickedness; that regardless of gods and men, and always surrounded by hangmen instead of lictors, he had, contrary to all laws and privileges, despoiled, scourged, and murdered his fellow-citizens; that then, turning his mind from slaughter to lust, he had not been ashamed to tear a Roman maid, of free condition, out of her father's arms, deliver her into the hands of the vile minister of his pleasures, and reduce the father to the cruel extremity of killing his daughter, to preserve her honour: that when the uncle and the person to whom she was betrothed were taking up the body of the expiring virgin, he had commanded them both to prison, being more vexed at the disappointment of his intended rape, than touched with concern for the murder. That surely it was but fitting so infamous a wretch should go to that prison which he himself had built, and had insolently named the "habitation of the commons of Rome." Then turning to Appius, "Appeal, therefore, as often as you will; unless you instantly plead, I order you to go as a criminal condemned."



The commitment of a patrician of such high rank seemed to many persons, even among the commons, an excessive stretch of tribunician power; yet nobody opposed it. Appius was that minute led to prison, and Virginius appointed him a day for making his defence.

His uncle, C. Claudius, who had always been against the decemvirs, and who had particularly detested the pride and insolence of his nephew, hastened however to his aid as soon as he heard of his disgrace. It has been already said, that to avoid being an eye-witness of the tyrannical government of the decemvirs, and of the miseries of Rome, he had retired to Regillus. He was no sooner come back to Rome, but he appeared in the Forum in a habit of mourning, and attended by all his relations and friends. He went from citizen to citizen, and besought each of them in particular not to fix such an ignominy upon the Claudian family, nor to suffer such a shame to themselves, as that the founder of their laws should lie in a dungeon with villains and robbers, but rather to forgive one of the Claudii, for the sake of so many of the name as interceded for him, than, out of hatred to one, to reject the prayers of so many. He added, that the people having fortunately recovered their liberty by their courage, there was now nothing wanting to the happiness of the republic but the restoring of union between the two orders in the state, and that this would be best done by clemency.

Many of the citizens were moved to pity by

Year of  
ROM E  
CCCIV.  
Before J. C.  
Four hundred forty-eight.

Sixtieth  
Consulship.  
Livy, B. 3.  
c. 58.



Year of  
R O M E  
CCCIV  
Bef. J. C.  
Four hun-  
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Sixtieth  
Consulship.

D. Hal. B.  
11. p. 726.  
Livy, B. 3.  
c. 58.

the entreaties and intercessions of Claudius. But Virginius, on the other hand, begged them to have compassion for him and his daughter, and to have regard to the prayers, not of the Claudian family which had tyrannized over them, but of Virginia's relations, three tribunes, who being created for the succour of the people, ought in their necessity to receive succour from them. Virginius prevailed.

Appius died in prison before the day came for his trial; and Dionysius tells us, that though the tribunes gave out that he had strangled himself, it was much suspected that he had been despatched by their orders. Livy, without mentioning a word of the tribunes, barely relates, that Appius, to avoid the infamy of a public punishment, put an end to his own life in prison.

The trial of Sp. Oppius, one of the plebeian decemvirs, followed next. Numitorius, Virginia's uncle, (who was now a tribune) prosecuted him, as an accomplice of Appius, whose injustice in her affair he had not opposed, though at that time in Rome. Nor was this the only crime laid to his charge. A veteran, who had served twenty-seven years, and had been eight times honoured with military rewards, stripping off his robe, exposed his shoulders, which had been torn with rods by the decemvir's lictors; and he offered to submit himself to the same treatment again, if Oppius could assign any good reason for his cruelty. The accused was condemned by the unanimous suffrages of the people; he was

thrown into prison, and Dionysius tells us, that he died there the very same day. The other eight decemvirs sought their safety in flight, and banished themselves. Their effects were confiscated and sold, and the produce carried by the quæstors into the public treasury. Marcus Claudius, the instrument employed by Appius to get Virginia into his power, was condemned to death; but as he laid all the crime upon Appius, Virginius was contented with his exile, doubtless in consideration that the wretch had acted in compliance with the will of a magistrate from whom he could have no appeal.

Thus was revenge taken for the innocent blood of the unfortunate Virginia, whose death (like that of Lucretia) procured liberty to the Roman people.

Though the punishment of the decemvirs was owned to be just, yet the senate could not help being under some consternation at the death and exile of so many members of their body. Neither was it possible to foresee what bounds the tribunes, who were so closely united with the two consuls, would put to their revenge: they seemed to be so many new decemvirs, who were going to re-establish the late tyranny. Duilius, who was one of the tribunes, but more moderate than the rest, dispelled the fears of the senate by this public declaration: "Enough has been done for the security of our liberty, and the punishment of our enemies. During the remainder of this year, I

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hundred forty-eight.

Sixtieth  
Consulship.  
D. Hal. B.  
11. p. 726.

Livy, B. 3.  
c. 59.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
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eight.

Sixtieth  
Consulship.

will not suffer, that any person be prosecuted or imprisoned for past faults, which being already expiated, ought therefore to be no longer remembered."

### CHAP. XXX.

**I.** The consuls take the field. *Valerius* defeats the *Æqui* and *Volsci*, and *Horatius* the *Sabines*. Nevertheless the senate, dissatisfied with their too popular administration, refuse them a triumph. They obtain it of the people. **II.** The tribunes purpose to get themselves perpetuated in the tribuneship, and *Horatius* and *Valerius* in the consulate. *Duilius*, one of the college, defeats both these projects. By his influence, joined with the senate's, five new tribunes are chosen: after which, finding that he cannot prevail with the tribes to fill the other five places with new magistrates, he dismisses the assembly, referring the completion of the whole number of ten tribunes to the five already elected. These five, among those they associate with them in their office, name two patricians. **TREBONIUS ASPER**, one of the plebeian tribunes, shortly after gets a law passed, forbidding the tribunes the practice of co-optation. **III.** In the consulate of *T. Quinctius Capitolinus* and *Agrippa Furius* the old dissensions are renewed; insomuch that though the *Æqui* and *Volsci* ravage the country to the very gates of Rome, the tribunes oppose the necessary levies of troops to repulse them: but *Quinctius* gets the better of this opposition by a speech he makes to the people. The consuls rout the enemy. **IV.** The Roman people dishonour themselves by a judgment they give in a cause referred to their arbitration by the cities of *Ardea* and *Aricia*.

**I. AND** now the main affair of the republic was to revenge herself on her enemies abroad, who had taken advantage of her late intestine divisions and anarchy to invade and pillage the



Roman territory. Valerius was appointed to march against the united forces of the Æqui and Volsci, and Horatius against the Sabines. But before the consuls left Rome, the two last tables of laws, which had not yet been established in due form, received the proper sanction, and, being engraven in brass, were fixed up in the Forum.

Each consul obtained a complete victory. Nevertheless, the senate, being dissatisfied with these magistrates, on account of their excessive popularity, and the little regard they had shown for the honour or interest of their own order, (even less than the tribunes) decreed only one day's supplications (or solemn thanksgivings) in the name of both; but the people of their own motion prolonged the ceremony all the next day.

In the meantime, the generals returned and appeared with their legions in the Campus Martius; and hither they summoned the senators. Of this several of the chief among them very much complained, as if the senate was held in the midst of arms, with a view to keep it in awe. The consuls hereupon removed the assembly to the Flaminian Meadows, and there presented their petition for a TRIUMPH. Many of the fathers stood up, and warmly opposed their request; but C. Claudius especially spoke with great bitterness on this occasion. Directing his speech to the consuls: "Did you not solemnly promise us, that the abdication of the decemvirs should be followed by a general pardon? And yet no

Year of  
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CCCIV.  
Bef. J. C.  
Four hundred  
forty-eight.

Sixtieth  
Consulship.

Liv. B. 3.  
c. 57.

c. 60. &  
seq.

D. Hal. B.  
11. p. 727.

Livy, B. 3.  
c. 63.

D. Hal. B.  
11. p. 728.

Year of  
R O M E  
CCCIV.  
Bef. J. C.  
Four hun-  
dred forty-  
eight.

Sixtieth  
Consulship.

sooner had we obliged those magistrates to depose themselves, but some of them were murdered, and others constrained to banish themselves from their country to save their lives. Appius, the head of the Claudian family, the chief of the decemvirs, was strangled in prison, without the least form of justice, and without so much as being heard in the assembly of the people, lest, moved to pity by the tears and desolation of a family that has deserved so well of the republic, they should have overlooked his faults. Our consuls, the heads and protectors of the senate, they, who ought to have exposed their very lives for the preservation of its dignity, have basely connived at the murder of the unfortunate Appius, and prosecuted nobody for it."

The senate, exasperated still more against the consuls by this discourse of C. Claudius, declared them unworthy of the honours they sued for, and they were given to understand that they ought to be well content if they escaped punishment. Valerius and Horatius, provoked at the intended ignominy, carried their complaints before the assembly of the people, and there the tribune Icilius demanded the TRIUMPH in their behalf. Many senators went to the Forum, to prevent the effects of this cabal, and, among them, C. Claudius. Though he had always been averse to the government of the decemvirs, yet he could never pardon the two consuls for having delivered up his nephew to the fury of the tribunes. With great vehemence he cried out to

Livy, B. 3.  
c. 63.



the people; that it was over the senate, and not over the enemy, that the consuls desired to triumph; that they sought a reward for a particular favour done to the tribunes, not for any worthy deed, any real merit; that the commons had no right to bestow the honours of the TRIUMPH; nor had ever before pretended to it; that this was a prerogative which belonged to the senate only; and that the republic would never be free and quiet till the two orders in the state forbore to encroach upon the rights and privileges of each other. No regard was had to these remonstrances; the tribes unanimously decreed the TRIUMPH to the consuls; and that it was afterwards thought a legal one, may be well concluded from its having a place in the Capitoline Fasti.

II. THE tribunes did not stop here. The power they had in the commonwealth by their good understanding with the two consuls, encouraged them to form the design of getting themselves continued in the tribuneship after the expiration of their year: and, to keep their ambition in countenance, they moved likewise that Valerius and Horatius might be continued in the consulship. They pretended that the senate had entered into a plot against the rights and immunities of the people; and that the new laws would be in great danger of being annulled, if, before they were solidly established, other consuls of quite contrary dispositions to those of the present should be chosen to the government. Luckily for the commonwealth, it had fallen

Year of  
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Bef. J. C.  
Four hundred forty-eight.  
Sixtieth  
Consulship.

Livy, B. 3.  
c. 63. and  
D. Hal. B.  
11. p. 729.

Livy, B. 3.  
c. 64.



Year of  
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CCCIV.  
Bef. J. C.  
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eight.

Sixtieth  
Consulship.

to DUILIUS to preside in the *comitia*, (the same DUILIUS who had put a stop to the prosecutions against the adherents of the decemvirs.) He, foreseeing the mischievous consequences of the measure proposed by his colleagues, declared, that he would not admit them for candidates, nor make any account of votes given in favour of any one of them. And when, upon their pressing him either to leave the assembly free, or to resign his presidentship, a warm dispute arose, he sent for Valerius and Horatius to his tribunal, and there asked them privately, what they intended to do, at the next *comitia* for creating consuls? They answered, "Create new consuls." The president instantly advancing with them into the assembly, put this question to them before the multitude: "If the ROMAN PEOPLE, mindful of the part you acted in recovering the public liberty, and mindful of your other services, both at home and abroad, should, in consideration of your merit, re-elect you to the consulship, what resolution would you take?" Their answer to this imported the same intention which they had expressed in their answer to the first question. Duilius praised them highly for not following the example of the decemvirs; and then held the *comitia* for electing tribunes. After five new ones had been chosen, the president, perceiving that the other candidates would not be able to engage a majority for them because of the busy opposition of his nine colleagues, dismissed the assembly. Nor did he appoint another day for the meeting of

the tribes to complete the number of ten tribunes. He alleged that he had satisfied the law; which no where required, that the whole number of tribunes should be chosen at one and the same time; but, on the contrary, had expressly directed, that, in case the whole number of ten tribunes were not chosen on the day of election, those who were chosen should themselves nominate persons to fill the vacant places.

It was in this manner that Duilius, to the satisfaction of both senate and commons, defeated the ambitious attempt of his colleagues; and, when he had reminded the last that there could not be fifteen tribunes in the republic, he laid down his magistracy.

The five new tribunes presently discovered, that they were under the influence of the senate: for among those they named to be their colleagues in the tribuneship, (which naming was then called co-optation) were Sp. Tarpeius and A. Æternius, old senators, and who had both possessed the consular dignity in the year 499.

At the election of consuls for the year 305, the fasces were transferred from Valerius and Horatius, to Lartius Herminius and T. Virginius. These magistrates being no zealots for either party, their government was entirely pacific. But L. Trebonius, one of the tribunes, extremely angry at the management of Duilius, (in the late election of tribunes, which had opened a way for patricians into that college) made heavy complaints of it to

Year of  
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CCCIV.  
Bel. J. C.  
Four hundred forty-eight.

Sixtieth  
Consulship.

Livy, B. 3.  
c. 65.

Year of  
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CCCV.  
Bel. J. C.  
Four hundred forty-seven.

Sixty-first  
Consulship.



Year of  
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CCCV.

Bef. J. C.  
Four hun-  
dred forty-  
seven.

Sixty-first  
Consulship.

\*Crabbed.

the commons. He gave himself entirely up, during the whole year, to cross the senate in every thing, whence he acquired the surname of Asper\*. And, in order to prevent for the future any tribunes (gained over by the senate) from doing as Duilius had done, he proposed a law, which he got passed, and which from his name was called *Lex Trebonia*, by which it was ordained, that whoever should hereafter hold the *comitia* for electing tribunes of the commons, should not dissolve the assembly till the number of TEN tribunes was completed by the votes of the tribes. This law put an end to the practice of co-optation.

Year of  
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III. M. GEGANIUS and C. Icilius succeeded Herminius and Virginius in the consulate. The plebeians began now to complain, and not without cause, that the young patricians treated them injuriously; and though the graver and wiser part of the senate did not approve of the haughty and outrageous behaviour of those youths, yet would they not abandon them to the fury of the tribunes. They thought it better, (says Livy) if the bounds of equity must be transgressed, and one party must overbear the other, that their own people should have the ascendant: so difficult a matter is it to act with moderation in the maintenance of liberty, every one under pretence of levelling, exalting himself in proportion as he lowers another. While men are endeavouring to get free from the fear of others, they make themselves be feared; to avoid oppression, they oppress; as if there was a ne-



cessity that we must either do injustice or suffer it.

The consuls found means to quiet the cabals of the tribunes on this occasion without employing invectives against them, or suffering the majesty of the senate to be offended.

There was neither contention at home, nor war abroad, when they resigned the fasces to

T. Quinctius \*Capitolinus and Agrippa Furius. But, this calm did not last long. The young nobles could not forbear insulting the plebeians, nor these submit to be insulted.

The aggressors were cited to appear before the people; fierce contentions and scuffles always followed. The report of these new dissensions was to the Æqui and Volsci as the signal for taking arms. They assembled their forces, fell first upon the Latine territory, and meeting with no resistance, advanced so near to Rome, as to drive off the cattle that were grazing before the Æsquiline gate. The consuls would have raised troops to repulse these invaders, but the commons, at the instigation of their tribunes, refused to list themselves. Hereupon the consul, Quinctius, a man illustrious by several victories, respected for the purity of his manners and the wisdom of his counsels, having convened a general assembly of the people, spoke to them to this effect :

“ Though I am not conscious, O Romans, of any crime by me committed, it is yet with the utmost shame and confusion that I appear in your assembly. You have seen it—poste-

Year of  
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Bef. J. C.  
Four hundred forty-five.

Sixty-third  
Consulship.

\* 4th time  
Consul.  
Livy, B. 3.  
c. 66.

c. 67.

Year of  
R O M E  
CCCVII.  
Bef. J. C.  
Four hun-  
dred forty-  
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Sixty-third
Consulship.

rity will know it—in the fourth consulship of Titus Quinctius, the Æqui and Volsci (scarce a match for the Hernici alone) came in arms to the very gates of Rome, and went away again unchastised! The course of our manners, indeed, and the state of our affairs, have long been such, that I had no reason to promise myself much good; but could I have imagined that so great an ignominy would have befallen me this year, I would by death or banishment (if all other means had failed) have avoided the station where I now am. What! might Rome then have been taken, if those men who were at our gates had not wanted courage for the attempt?—Rome taken, while I was consul!—Of honours I had sufficient—of life enough—more than enough—three consulships—I should then have died.

“But who are they whom our dastardly enemies thus despise? The CONSULS? or you, Romans? If we are criminal, depose us, punish us yet more severely. If you are in fault—may neither gods nor men punish your faults!—only may you repent.

“No, Romans, the confidence of our enemies is not owing to their courage, or to their belief of your cowardice: they have been too often vanquished not to know both themselves and you. Discord, discord is the ruin of this city. The endless disputes between the senate and the commons are the sole cause of our misfortunes. While we will set no bounds to our domination, nor you to your


liberty; while you impatiently endure patrician magistrates, and we plebeian, our enemies take heart, grow elated and presumptuous.

“ In the name of the immortal gods, what is it, Romans, you would have? You desired tribunes: for the sake of peace we granted them. You were eager to have decemvirs: we consented to their creation. You grew weary of these decemvirs: we obliged them to abdicate. Your hatred pursued them when reduced to be private men; and we suffered you to put to death or banish patricians of the first rank in the republic. You insisted upon the restoration of the tribuneship: we yielded. We quietly saw consuls of your own faction elected. You have the protection of your tribunes, and the privilege of appeal: the patricians are subjected to the decrees of the commons: under pretence of equal and impartial laws, you have invaded our rights; and we have suffered it, and we still suffer it. When shall we see an end of discord? When shall we have one interest, and one common country? Victorious and triumphant, you show less temper than we under our defeat. When you are to contend with us, you can seize the Aventine hill, you can possess yourselves of the Mons Sacer. The enemy is at our gates, the *Æsquiline* is near being taken, and nobody stirs to hinder it. But against us you are valiant, against us you can arm with all diligence. Come on then, besiege the senate-house, make a camp of the Forum, fill the jails with our prime nobles; and when you have

Year of
R O M E
CCCVII.
Bef. J. C.
Four hundred forty-five.

Sixty-third
Consulship.

Year of
R O M E
CCCVII.
Bef. J. C.
Four hun-
dred forty-
five.


Sixty-third
Consulship.

achieved these glorious exploits, then at least sally out at the *Æsquiline* gate with the same fierce spirits against the enemy. Does your resolution fail you for this? Go then, and behold from our walls your lands ravaged, your houses plundered and in flames, the whole country laid waste with fire and sword! Have you any thing here to repair these damages? Will the tribunes make up your losses to you? They will give you words as many as you please; bring impeachments in abundance against the chief men in the state; heap laws upon laws; assemblies you shall have without end; but will any of you return the richer from those assemblies? You imagine perhaps that those flatterers, those popular men, who will neither let you live in quiet at home, nor take arms against our foreign enemies, are animated by a zeal for your interests. It is honour, it is profit to themselves they seek. When domestic peace and unanimity reign, they find, they have no business, are of no consideration; and they had rather be leaders in tumults and seditions, than not bustle about, and make a figure. Romans, beware of such friends; undeceive yourselves. Do but resume your former spirit and manners, and there is no punishment to which I will not submit, if I do not, in a few days, disperse and put to flight the invaders of our country, the pillagers of our lands. This terror of war (with which you seem to be so grievously struck) shall quickly be removed from Rome, to their own cities. Never, says Livy, were the commons more

pleased with the flattering speeches of a tribune, than they were with the reproachful one of this generous consul. The senate was no less charmed with his conduct; the wisest and most eminent men of that body declared, that other consuls had either betrayed the dignity and rights of the senate, to win favour with the multitude, or by the rough imprudent measures they had taken to keep them under, had only exasperated them to a higher pitch; but that Quinctius, without forgetting the honour of the senate, had wisely suited his discourse to the times, and had shown that he had nothing at heart but the union of the two orders, and the majesty of the Roman name.

Consuls and tribunes, senate and people, all concurred unanimously in taking arms. The contention now was, who should appear most forward, so that the levies were quickly made; each cohort chose its centurions, and had two senators placed at the head of it; and all things were done with so much expedition, that the army, that very day, marched ten miles on its way. The next, the consuls came in sight of the enemy, and the day following gave them battle. The Æqui and Volsci fought with great courage and resolution, but victory declared for the Romans. The first advantage gained was by the Roman cavalry under S. Sulpitius, one of the consuls' lieutenants. They put the enemies horse to the rout, and then falling upon the main body of their infantry, both terrified and disordered it. Quinctius (who commanded the right wing of the Ro-

Year of
R. O. M. E.
CCCVII.
Bef. J. C.
Four hundred forty-five.

Sixty-third
Consulship.

Livy, B. 3.
c. 6.

c. 70.

Year of
R. O. M. E.
CCCVII.
B. C. J. C.
Four hun-
dred forty-
five.

Sixty-third
Consulship.

mans) soon after forced the Volsci, who faced him, to give ground. But Agrippa Furius in the left wing met with a more obstinate resistance from the Æqui. Impatient of being less successful than the other generals, he snatched some of the ensigns from the officers who bore them, and threw them into the midst of the enemies' battalions. By this he turned the scale in his favour. His soldiers, by the vigorous effort they made to recover those ensigns, rendered the victory complete on the side of the Romans. The consuls instantly marched to the enemies' camp, entered it without opposition, and found there, besides those effects which the Æqui and Volsci had carried off, out of the territory of Rome, a very rich booty.

Livy remarks it, as a thing extraordinary, that the consuls, at their return, did not demand a triumph, nor the senate make them the offer of one. He conjectures, that Quinctius and Furius were ashamed to ask, in recompense of one victory, an honour which the fathers had refused to Valerius and Horatius, for the reward of two; lest, if they should obtain their request, it might be thought that more regard was showed to persons than to merit.

Livy, B. 3.
c. 71, 72.

IV. This would have been a glorious year for the republic, if the Roman people had not dishonoured themselves by their manner of deciding a cause, at this time, referred to their arbitration. It was a dispute between the inhabitants of Ardea* and those of Aricia, concerning a large tract of land, to which each of

* *La Latium.*

those cities laid claim. The tribes were assembled, the witnesses were heard, and the votes were just going to be taken, when one Scaptius, a very old man of the meanest of the people, (having obtained, by the interposition of the tribunes, permission to speak, after it had been refused him by the consuls) pretended to have known the district in question about forty-seven years, that it formerly belonged to Corioli, and consequently now to the Romans, who, he said, ought therefore to make no scruple of seizing it. This motion, (though, according to Livy, the man spoke truth) gave the consuls a great deal of concern, when they found it favourably listened to. They sent for the chief men of the senate, and, jointly with them, used their utmost endeavours to dissuade the people from taking a step which must cast a blemish on the Roman probity: but they strove in vain; the people adjudged the territory to themselves.

CHAP. XXXI.

I. The commons of Rome (in the consulate of M. Genucius and C. Curtius) demand that plebeians may be admitted into the consulship, and that the law prohibiting patricians and plebeians from intermarrying may be repealed.

II. T. Quinctius and the majority of the senate think it better to comply than to come to a rupture with the people, which, otherwise, seems unavoidable. Claudius, to hinder the debasing of the consulship, makes this new proposal, that instead of consuls, a certain number of MILITARY TRIBUNES be chosen, partly out of the senate, and partly

Year of
R. O. M. E.
CCCVII.
Bef. J. C.
Four hundred forty-five.

Sixty-third
Consulship.

from among the commons; and that these new magistrates be invested with consular power. This project is approved by senate and people; and six MILITARY TRIBUNES (three of each order) are to take the place of two consuls. III. But when the day of election comes, the people will not give their voices to any but patricians; and only three military tribunes are elected. These are obliged soon after to abdicate, on account of some defect in their inauguration; and two consuls are chosen to govern the republic the remainder of the year. IV. Under the succeeding administration of T. Quinctius Capitolinus (a fifth time consul) and M. Geganius (a second time) the CENSORSHIP is established.

Year of
R O M E
CCCVIII.
Bef. J. C.
Four hundred
forty-four.

Sixty-fourth
Consulship.
Livy, B. 4.
c. 1.

I. BY the late victory so suddenly obtained over the Æqui and Volsci, the commons became sensible of their own strength, and the need which the senate had of them. This made them carry their pretensions¹ further than ever. They grew every day more untractable and more enterprising. C. Canuleius, one of the tribunes, proposed, that, by a decree of the people, the law (in the twelve tables) which forbade patricians to intermarry with plebeians, should be repealed: and, soon after, nine of the tribunes moved, that a new law should be made, qualifying plebeians to stand for the consulship. M. Genucius and Caius Curtius, the present consuls, thought to defeat these projects by leading the citizens into the field. The Ardeates had revolted, on account of the unjust proceeding of the

¹ According to Tacitus, (Annal. B. 11. c. 22.) the people obtained this year the right of naming the quæstors, a prerogative which the consuls had hitherto enjoyed.

Plutarch attributes the choice of the quæstors to the people, from Poplicola's time.

people of Rome in their affair, and it was said, that the Veientes had begun hostilities. There was a rumour also that the Æqui and Volsci were preparing to renew the war. Countenanced by these alarms, the senate ordered troops to be raised with the same diligence as the last year. But then Canuleius in the most peremptory manner protested, that, while he had breath, no levies should be made unless the laws proposed by him and his colleagues were first received. This said, he straight went out of the senate-house, and convened the people. The consuls, full of indignation, inveighed in the sharpest terms against the tribunes, whose madness, they said, was no longer to be endured; that they raised a war within the city, more dangerous than that without it; that no domestic peace could be maintained in a state which had senators and tribunes; that the conscript fathers must absolutely resolve either to resign their own authority, or abolish that plebeian magistracy. "What a detestable project is this of C. Canuleius? He is for mingling, by shameful marriages, the blood of the nobles with that of the commons. If he brings this about, those who are born of such marriages will hardly know, whether they belong to the patrician or plebeian body, and the auspices, public and private, will be confounded. And as if it was not enough to destroy all distinction of birth, and to break through all rights both divine and human, the colleagues of Canuleius, those other disturbers of the public quiet, have the bold-

Year of
R O M E
CCCVIII.
Bef. J. C.
Four hundred forty-four.

Sixty-fourth
Consulship.

Livy, B. 4.
c. 2.

Year of
R. O. M. E.
CCCVIII.
Bef. J. C.
Four hun-
dred forty-
four.

Sixty-fourth
Consulship.

Livy, B. 4.
c. 3.

ness to lift their eyes to the very consulship itself. We are now just on the point of seeing that great dignity fall a prey to the Canuleii and the Iciliii. But let those new men be assured, that the gods, protectors of this empire, will never suffer it; and that we ourselves will rather die a thousand deaths, than bear so great an infamy." While the consuls were thus exasperating the senate against the tribunes, the tribunes were exciting the anger of the plebeians against the consuls. These left the senate-house, and repaired to the Forum. "What an insult upon us!" cried Canuleius. "If we are not so rich as the patricians, are we not citizens of Rome as well as they? Inhabitants of the same country? Members of the same community? The nations bordering upon Rome, and even strangers more remote, are admitted not only to marriages with us, but to what is of much greater importance, the freedom of the city. Are we, because we are commoners, to be worse treated than strangers? And when we demand that the people may be free to bestow their offices and dignities on whom they please, do we ask anything unreasonable or new? Any thing more than a restitution of the people's natural right? What occasion then for all this uproar, as if the universe was falling to ruin? (They were just going to lay violent hands upon me in the senate-house.) What? must this empire then be unavoidably overturned, must Rome of necessity sink at once, if a plebeian, worthy of the office, should be

raised to the consulship? The patricians, I am persuaded, if they could, would deprive you of the common light. It certainly offends them to see that you breathe, that you speak, that you have the shapes of men. — Nay, but to make an commoner a consul would be, say they, a most enormous thing. — Numa Pompilius, however, without being so much as a Roman citizen, was made king of Rome. The elder Tarquin, by birth not even an Italian, was nevertheless placed upon the throne. Servius Tullius, the son of a captive woman, (no body knows who his father was) obtained the kingdom as the reward of his wisdom and virtue. In those days, no man in whom virtue shined conspicuously was rejected or despised on account of his birth and descent. And did the state prosper the less for that? Were not those strangers the very best of all our kings? And supposing now that a plebeian should have their talents and merit, must not he be suffered to govern us because he is a plebeian? Shall we rather have consuls resembling the patrician decemvirs, the most detestable of mortals, than such as resemble the very best of our kings, who were new men? But we find, that upon the abolition of the regal power, no commoner was chosen to the consulate. And what then? Before Numa's time there were no pontifices in Rome. Before Servius Tullius's days there was no census, no division of the people into classes and centuries. Who even heard of consuls before the expulsion of Tarquin the Proud? Dicta-

Year of
R. O. M. E.
cccviii.
Bef. J. C.
Four hun-
dred forty-
four.

Sixty-fourth
Consulship.

Year of
R O M E
CCCVIII.
Bef. J. C.
Four hun-
dred forty-
four.

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Sixty-fourth  
Consulship.

tors, we all know, are of modern invention; and so are the offices of tribunes, ædiles, quæstors. Within these ten years we have made decemvirs, and we have unmade them. Is nothing to be done but what has been done before? That very law forbidding marriages of patricians with plebeians, is not that, a new thing? Was there any such law before the decemvirs enacted it? and a most shameful one it is in a free state.

“Such marriages, it seems, will taint the pure blood of the nobility. Why, if they think so, let them take care to match their sisters and daughters with men of their own sort. No plebeian will do violence to the daughter of a patrician. Those are exploits for our prime nobles. There is no need to fear that we shall force any body into a contract of marriage. But to make an express law prohibiting marriages of patricians with plebeians, what is this, but to show the utmost contempt of us, and to declare one part of the community to be impure and unclean? Why don’t they lay their wise heads together to hinder rich folks from matching with poor?

“They talk to us of the confusion there will be of families, if their statute shall be repealed. I wonder they don’t make a law against a commoner’s living near a nobleman, or going the same road that he is going, or being present at the same feast, or appearing in the same market-place. They might as well pretend, that these things make confusion of families, as that intermarriages will do it. Does not



every body know that the children will be ranked according to the quality of the father, let him be patrician or plebeian? In short, it is manifest enough, that we have nothing in view but to be treated as men and citizens; nor can they who oppose our demand have any motive to do it but the love of domineering.

“I would fain know of you, consuls and patricians, is the sovereign power in the people of Rome or in you? I hope you will allow, that the people can at their pleasure either make a law, or repeal one. And will you then, as soon as any law is proposed to them, pretend to list them immediately for the war, and hinder them from giving their suffrages by leading them into the field?

“Hear me, consuls: whether the news of the war you talk of be true, or whether it be only a false rumour spread abroad for nothing but a colour to send the people out of the city, I declare, as tribune, that this people, who have already so often spilt their blood in our country's cause, are again ready to arm for its defence and its glory, if they may be restored to their natural rights, and you will no longer treat us like strangers in our own country. But if you account us unworthy of your alliance by intermarriages, if you will not suffer the entrance to the chief offices in the state to be open to all persons of merit indifferently, but will confine our choice of magistrates to the senate alone, talk of wars as much as ever you please; paint in your ordinary discourses

Year of  
R. O. M. E  
CCCVIII.  
Bef. J. C.  
Four hundred forty-four.

Sixty-fourth  
Consulship.

Year of  
R. O. M. E.  
CCCVIII.  
Bef. J. C.  
Four hun-  
dred forty-  
four.

Sixty-fourth  
Consulship.

Livy, B. 4.  
c. 6.

the league and power of our enemies ten times more dreadful than you do now; I declare that this people, whom you so much despise, and to whom you are nevertheless indebted for all your victories, shall never more enlist themselves; not a man of them shall take arms, not a man of them shall expose his life for imperious lords, with whom he can neither share the dignities of the state, nor in private life have any alliance by marriage."

After long speeches made on both sides, the consuls and tribunes fell to altercation. Canuleius asked the consuls, what reason could be assigned, why a plebeian might not attain to the consulship? It was answered, (perhaps with truth, says Livy, but to little purpose on the present occasion) "that no plebeian had a right to the auspices; and that the decemvirs had prohibited marriages between persons of different orders, that the auspices being taken only by patricians whose blood was pure and unmixed, there might be no profanation of that religious rite." No words can express the indignation of the people at this answer: to hear that they were excluded from taking the auspices as men hateful to the gods on account of their birth.

The fury of the multitude rose to such a height, that the senate found it necessary to let Canuleius's law concerning marriage pass. They hoped that this concession would induce the other tribunes to give over entirely the pursuit of the law relating to the consulship, or at least to suspend it till the conclusion of



the war: but their hope proved vain: those tribunes, though the alarm from abroad daily increased, still opposed the musters, and pushed their point with the same zeal as before; nay, they all publicly swore by their faith, (the most solemn oath then in use among the Romans) that they would not be diverted from their purpose by any persuasion whatsoever.

II. THESE violent proceedings greatly distressed the consuls. They saw plainly that they must yield the victory either to the commons at home or to the enemy abroad. They held private councils at their own houses, with the senators of their party. C. Claudius, who had received from his ancestors an hereditary hatred, as it were, to the faction of the people, spoke first, and gave it as his opinion, that the senate should rather have recourse to arms, than yield the dignity of the consulship to the people; and that without distinction they ought to treat as public enemies all persons, let them be private men or magistrates, who should attempt to change the form of the government. But the two Quinctii, who abhorred all thoughts of shedding Roman blood, put the senate in mind of the solemn engagement they had entered into with the commons, to hold the persons of the tribunes sacred and inviolable; and they advised them rather to yield up part of their prerogatives, than run the hazard of a civil war.

All the rest of the assembly having declared themselves of this opinion, C. Claudius rose up again: "I submit, the sentiment of so many

Year of  
R O M E  
CCCXIII  
Bel. J. C.  
Four hundred forty  
four.  
SIXTY-FOURTH  
Consulship.  
D. Hal. B.  
11. p. 731.  
Livy, B. 4.  
c. 6.



Year of  
R. O. M. E.  
CCCVIII.  
Bef. J. C.  
Four hun-  
dred forty-  
four.

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Sixty-fourth
Consulship.

D. Hal. B.
11. p. 732.

wise and worthy men is not to be contradict-
ed: but since you think it proper to admit
plebeians into the government, let us endea-
vour to satisfy this restless people, without de-
basing the majesty of the consulship. And
in order to this, I propose, that instead of
consuls, we elect such a number of military
tribunes as shall be agreed upon, to be chosen
one half out of the senate, the other from
among the plebeians, and that these magis-
trates be invested with consular power. The
people by this means will be satisfied: and the
consulate in more favourable times may resume
its ancient splendour and majesty." Great
praises were given to Claudius, and the whole
assembly agreed to the proposal. Then ad-
dressing his speech to M. Genucius, first con-
sul: "In order to succeed in this design, I
would advise you to convene the senate, send
for the tribunes of the people, and when their
assembly is formed, declare that you invite all
who love their country, to speak their minds
freely with relation to the new laws demanded
by the people. Then gather the opinions; and
instead of beginning with T. Quinctius, I
me, or any other of the ancient senators, be-
gin with Valerius and Horatius. When these
have delivered their sentiments, then ask ours.
For my part I shall declare my thoughts freely,
and oppose the pretensions of the tribunes
with all my might, as indeed I think it my
duty to do. But if you are willing to have mili-
tary tribunes, let your brother T. Genucius
make the motion. He is the fittest person to

make it; and I can assure you, it will not be in the least suspected if it comes from him.”

All approved of this scheme. The consuls soon after convened the senate; and when they had recommended concord and moderation to the assembly, invited the tribunes to give their reasons in behalf of the new laws. Canuleius, instead of speaking to the matter in question, ran wholly into bitter complaints against the two consuls for holding secret assemblies, from which, he said, all the senators who were friends to the people had been excluded, and particularly Valerius and Horatius, than whom there were not wiser men, nor men of more merit in the republic.


The consul, Genucius, replied, that they had indeed assembled some of the older senators, but only to consult with them, whether it would be better instantly to propose the new laws to the senate, or to defer it till the end of the campaign: that if they did not invite Valerius and Horatius to that council, it was purely to avoid making the people suspect that these senators had changed their party. He added, “And to convince you that my colleague and I are impartial, we shall give you this proof of it. Though it be the custom for the consuls to ask the opinions of the oldest senators first, yet, as you do not believe them to be friends to the people, we will now change that method, and begin with Valerius and Horatius.” Then addressing himself to Valerius, he invited him to declare his opinion.

Valerius made a long preamble, expatiating

Year of
R. O. M. E.
CCCVIII.
Bef. J. C.
Four hundred forty-four.
Sixty-fourth
Consulship.
D. Hal. B.
11. p. 733.

p. 734.

Year of
R O M E
CCCVIII.
Bef. J. C.
Four hun-
dred forty-
four.


Sixty-fourth
Consulship.

upon his own services to the republic, and upon those of his ancestors. He then turned his panegyric upon the people, and recounted their merit. He added, that no city could be called free, where the citizens were not all upon an equality with regard to rights and privileges; and that he saw no reason why the plebeians should be excluded from the consulate. However, he at the same time declared, that he thought the consideration of this affair ought to be deferred to the end of the war; and he exhorted the tribunes of the people to desist from their opposition to the levies which the consuls demanded. On the other hand, he exhorted the consuls to make it their first business, as soon as the war should be happily concluded, to procure a *senatus-consultum*, for empowering the assembly of the people to decide upon the affair in question; and he was for having the two parties come immediately to a formal written agreement to do as he advised. Horatius, whose opinion was asked next, spoke much to the same effect.

D. Hal. B.
11. p. 735.

This advice raised a murmur in the assembly, for it was not thoroughly liked either by those who were against the law, or by those who were for it. The first were pleased with the motion for postponing the affair, but they could not digest the proposal of resuming it after the end of the war. On the other hand, the favourers of the people, though glad to find that those two eminent senators held the law to be reasonable, were yet uneasy at the

thoughts of any delay in passing the *senatus-consultum*.

The consuls then asked the opinion of C. Claudius, who was looked upon as the main pillar and support of the patrician faction. He pronounced with great spirit a studied harangue against these new pretensions of the people. He enumerated all their deviations from the excellent manners and institutions of their forefathers, and concluded against suffering the new proposal to be brought into deliberation, either now, or at any time hereafter.

Claudius's speech did not fail to produce a commotion in the assembly. The consul, M. Genucius, to put a stop to it, called upon his brother, Titus, to give his opinion. This senator declared, that it was with the greatest concern he beheld the commonwealth afflicted with two scourges at the same time, a foreign war, and domestic feuds; that he found there was no avoiding one of two evils, the strengthening of the enemy by a continuation of the intestine broils in the republic, or the hurting of the constitution by new concessions to the people: that, the case being so, he was of opinion rather to yield up part of the prerogatives of the nobility to the plebeians, than abandon the territory of Rome to be ravaged by strangers. He added, "But, since the ancient senators are so averse to the thoughts of seeing the consular dignity in the hands of plebeians, a medium may perhaps be found to

Year of
R O M E
CCCVIII.
Bef. J. C.
Four hundred forty-four.

Sixty-fourth
Consulship.

Year of
R O M E
CCCVIII.
Bef. J. C.
Four hun-
dred forty-
four.

Sixty-fourth
Consulship.

satisfy both parties. What if we should suppress for a time that dignity, and create in the room of two consuls, six MILITARY TRIBUNES, who shall have the same functions and the same authority? Let three of the number be patricians, and the other three be plebeians. Next year the senate and people may decide, in a general assembly, whether they will restore the consulship, or continue to elect military tribunes."

D. Hal. B.
11. p. 736.

This proposal (of which Claudius was the true author) was approved by plurality of voices. T. Genucius had the praises of both the senate and the people, for his happy thought; the senators were glad to have excluded the plebeians from a dignity which they hoped to re-establish with all its prerogatives in more favourable times; and the people, without disturbing themselves about an empty name, could not contain their joy at seeing themselves at length admitted to share in the government of the commonwealth.

Livy, B. 4.
c. 6.
D. Hal. B.
11. p. 736,

III. SOME days after, an assembly was held for the election of these new magistrates. Several of the chief plebeians, and especially those who had been tribunes, appeared in the Forum, clothed in white, and solicited the people for their voices; but the multitude, satisfied with having it in their power to raise plebeians to the government, would give their votes to none but patricians; so that only three military tribunes were chosen, A. Sempronius Atratinus, L. Attilius, and T. Cecilius,

or Clelius². Livy adds; “Where shall we now find in any one man, that moderation, that equity, that greatness of soul, which were then conspicuous in a whole people?” Dionysius, on the contrary, imputes their behaviour, on this occasion, to nothing but that levity so natural to the multitude, in all ages and nations.

But these new magistrates were obliged to abdicate within three months after their election, upon account that C. Curtius, who had presided at it, gave notice, that in taking the auspices, (a ceremony which always preceded the elections of the curule magistrates) the due forms had not been strictly observed. The Romans were very scrupulous in the least circumstances that concerned their religion; but perhaps the patricians created this scruple only with a view to restore the consular office. The military tribunes had no sooner resigned their authority, but an *inter-rex* was named, that the commonwealth might not remain without a head. The main question now was, whether consuls or military tribunes should be appointed to the government? The senators failed not to declare for the former; the people at first for the latter: but as they knew themselves resolved to choose none but patrician governors, they soon grew indifferent; and the tribunes themselves chose rather to proceed to an election where they could not be candidates, than to one where they were sure to suffer the disgrace of being rejected as

Year of
R O M E
CCCIX.

Bef. J C.
Four hundred forty-three.

First Military Tribunes.

² Livy makes the first military tribunes to take place in the year 310. The Fast. Cap. in 309.

Year of
R O M E
CCCIX.
Bef. J. C.
Four hun-
dred forty-
three.

First Military
Tribunes.

Livy, B. 4.
c. 7. 8.

unworthy. And thus by the joint consent of the senate and people, the *inter-rex*³ appointed consuls, for the remaining part of the year. L. Papirius Mugillanus, and L. Sempronius Atratinus, brother to one of those patricians who had abdicated the military tribuneship, were the persons named.

Nothing considerable happened during the government of the late military tribunes, or during the present consulship. The union between the two orders in the republic kept the neighbouring powers quiet; and even the Ardeates submitted, and renewed their alliance with Rome. The senate gave them good words concerning the restitution of their lands in due time; but they could not reverse a decree of the people.

Year of
R O M E
CCCX.
Bef. J. C.
Four hun-
dred forty-
two.

Sixty-sixth
Consulship.
* 5th time
Consul.

IV. IN the following consulate of M. Geganius and T. Quinctius*, the CENSORSHIP was erected. This new dignity, which at first seemed of but small importance, became, in time, by the power annexed to it, the pinnacle of honour, and the most formidable magistracy in the republic.

As the spirit of conquest was what chiefly prevailed in this nation, king Servius Tullius, in order to have a sure supply of men and money, decreed, as has been already shown, that every five years an enumeration should be made of all the Roman citizens, with an exact

³D. Hal. says, that the assembly of the people chose these consuls. And Livy means no more, by imputing the choice to the *inter-rex*, than that the *inter-rex* presided in the assembly. Vid. sup. p. 27.

valuation of every man's wealth. The prince or magistrate by this means could know immediately how many inhabitants Rome had, that were capable of bearing arms, and what contributions might be raised for the expense of war.

Year of
R O M E
CCCX.
Bef. J. C.
Four hundred forty-two.

Sixty-sixth
Consulship.

But the consuls, (almost continually employed in foreign wars) not having had leisure in more than seventeen years to make that enumeration which was called the *census*, it was proposed, for the ease of the consuls, that two magistrates should be created, who, with the title of CENSORS, should every five years take that general review of the whole Roman people.

The tribunes, though always upon their guard against every thing offered by the senate, did not oppose the establishment of this new magistracy. Nay, they did not so much as demand that the plebeians should be allowed a share in it. The reason of this might be, that they thought the powers and prerogatives of the censorship would be inconsiderable, or that the commons gained a sufficient advantage by the diminution that was made of the consular authority, the constant object of their envy and emulation.

Papirius and Sempronius, the consuls of the preceding year, were the first censors; and this dignity was unanimously conferred upon them, to make them amends for the short duration of their consulate, which they did not enter upon till after the abdication of the military tribunes.

Year of
R O M E
CCCX.
Bef. J. C.
Four hun-
dred forty-
two.

~~~~~  
Sixty-sixth  
Consulship.

While the consuls performed the censorial functions, their whole business in that article had been to take an exact account of the names, estates, ages, and conditions of all the masters of families, and the names and ages of their children and slaves. But as men generally study how to enlarge their own authority, the censorship was no sooner dismembered from the consulship, and made a distinct magistracy, than the censors began to take upon them the reformation of manners. The senators and knights, in process of time, became subject to their censure as much as the meanest of the people.

When the censors made their general review, the citizens of all ranks trembled at the sight of their tribunal; the senator, through fear of being expelled the senate; the knight, with apprehension of being deprived of the horse which the republic kept for him; and the commoner, with dread of being removed from a higher tribe to a lower, or quite disabled from giving his vote in the assemblies, or condemned to pay a fine. So that this wholesome terror was the support of the sumptuary laws, the bond of concord, and as it were the guardian of modesty and virtue<sup>4</sup>.

<sup>4</sup> After the second Punic war the censors were always created out of such persons as had been consuls, though it sometimes happened otherwise before. Their station came in time to be reckoned more honourable than the consulship, though their authority in matters of state was not so considerable: and the badges of the two offices were the same, only that the censors were not allowed the lictors to walk before them as the consuls were.



The censorship continued no longer than to the time of the emperors, who performed the same duty at their pleasure: and the Flavian family, *i. e.* Vespasian and his sons, took a pride (as Mr. Walker\* observes) to be called censors, and put this among their other titles upon their coin. Decius, the emperor, entered on a design of restoring the honour to a particular magistrate, as heretofore, but without any success. † Kenn. Antiq. P. 2. B. 3. Ch. 7.

\* Of coins and medals.

† Vide Trebell. Poll. in Decio.

## CHAP. XXXII.

I. *The Romans put an end to a civil war among the Ardeates.*

II. *And the next year make them some amends for the wrongs they had done them, on occasion of their contest with the Aricians.* III. *Sp. Mælius, a Roman knight, and corn-merchant, aspires to the sovereign power. His designs are discovered by Minucius, superintendant of provisions, in the consulate of T. Quinctius Capitolinus (now a sixth time consul) and Agrippa Menenius. Quinctius on this occasion names his brother Quinctius Cincinnatus dictator, who appoints Servilius Ahala to be his general of the horse. Mælius is slain by Servilius. Three of the tribunes, provoked at this action, stir up the people to mutiny; and the patricians, to pacify them, consent to the creation of military tribunes for the next year.*

I. WHILE the consuls were thus removing from themselves some part of the burden which had been annexed to their office, a neighbouring city found them new employment abroad. The Ardeates were involved in a civil war, occasioned by a dispute between two private citizens of Ardea, one of a noble family, the other of a plebeian, who had both fallen in love with the same young woman. She herself was plebeian, and her guardians were for giving

Year of  
R O M E  
CCCX.  
Bef. J. C.  
Four hundred  
forty-two.

Sixty-sixth  
Consulship.  
Livy, B. 4.  
c. 9.

Year of  
R. O. M. E.  
CCCX.  
Bef. J. C.  
Four hun-  
dred forty-  
two.

Sixty-sixth  
Consulship.

her to a man of her own rank; but her mother, an ambitious widow, was fond of matching her with a man nobly born. It became a party quarrel, and rose to such a height, that the plebeians left the city in great numbers, encamped on a hill in the neighbourhood, and from thence sent out parties that pillaged and laid waste the lands of the nobility. The mutineers were joined by the Volsci, and having chose themselves a commander named Cluilius, laid siege to Ardea. The nobles applied to the Romans. The senate sent an army to their relief, under the command of the consul Geganius, who invested the besiegers, reduced them to surrender their arms, and made them pass under the yoke.

Livy, B. 4.  
c. 10.

But though Geganius returned to Rome with all the glory of a conqueror, his triumph being attended with uncommon pomp and solemnity, yet his colleague, Titus Quinctius, who had continued in Rome, was, for his admirable conduct in the civil government, and his impartiality in the administration of justice, more esteemed and respected than he. Nobody ever knew better than Quinctius how to temper severity with mildness.

The senators thought him sometimes too severe to the people, and yet the people were perfectly satisfied with his goodness to them. It is easy to imagine, that, during such a wise administration, the people did not think of changing the forms of government, and creating military tribunes.

II. M. Fabius and Posthumius Æbutius

being chosen consuls for the new year, made it their business to bury in oblivion the remains of that infamy which the Roman people had brought upon themselves by the unjust judgment formerly passed in relation to the Ardeates. They prevailed on the senate to pass a decree for sending a colony to Ardea, to defend and re-people the city, much depopulated by the civil war. It was agreed, but secretly, for fear of the tribunes, that no lands, except those formerly in dispute, should be divided among the new colony, of which the greater part should not be Romans, but Rutuli, (whose capital city was Ardea) and that no Roman should have any portion of the lands, till all the Rutuli of the colony were provided for. This was in reality annulling the judgment of the people by an act of power. And accordingly Agrippa Menenius, T. Clælius, and M. Æbutius, the commissioners for making the distribution, were (after a faithful discharge of their trust) cited to appear before the people. But these three patricians avoided the prosecution, by declaring themselves citizens of Ardea, and continuing there.

The new year of C. Furius and M. Papirius was as peaceful as the foregoing; not but that some tribunes of the commons, always restless, endeavoured to revive the pretensions of the people, relating to the partition of the lands. They even threatened, according to their old custom, to oppose the raising of soldiers; but as there were no wars then to be

Year of  
R O M E  
CCCXI.  
Bef. J. C.  
Four hundred forty-one.

Sixty-seventh Consulship.

Livy, B. 4.  
c. 11.

Year of  
R O M E  
CCCXII.  
Bef. J. C.  
Four hundred forty.

Sixty-eighth Consulship.



Year of  
R O M E  
CCCXIII.  
Bef. J. C.  
Four hun-  
dred thirty-  
nine.

~~~~~  
Sixty-ninth
Consulship

Livy, B. 4.
c. 12.

carried on, this menace was fruitless and despised.

III. ALL was quiet, when the next year, in the consulate of Proculus Geganius and L. Menenius, there happened a dreadful famine, which occasioned seditions, by means whereof a private man (if we may credit Livy) was near getting possession of the sovereign power. The senate imputed this scarcity of corn to the laziness and negligence of the plebeians, who, intoxicated with the seditious harangues of the tribunes, were always sauntering in the Forum, and, instead of cultivating their lands, wasted their time in idle reasonings about state affairs. On the other hand, the multitude (who always grumble at those who are at the helm) imputed the dearth entirely to the want of care in the consuls. At length the people, with the senate's approbation, appointed L. Minucius, an active, prudent man, to be principal purveyor and superintendant of provisions. Minucius sent his agents into the neighbouring countries all round to buy corn; but with little success. A Roman knight, whose name was Sp. Mælius, one of the richest private men in the commonwealth, had been beforehand with him at the markets in Hetru-ria, and had bought up, in that province, so much corn, at his private expense, as hindered the agent of the public from making the necessary provision at a reasonable price. Mælius with a liberal hand distributed, among the necessitous, the corn he had amassed. It is

c. 13.

said that the popularity he acquired by this means, gave him good ground to hope being one day raised to the consulship. But this, it seems, was not enough to satisfy his ambition. Nothing less than regal power would content him.

During the public calamity new consuls were chosen, T. Quinctius Capitolinus* and Agrippa Menenius; but Minucius was continued in his office. His commission frequently obliging him, either by himself or his agents, to have intercourse with the same sort of men, with whom Mælius trafficked in his private capacity, the purveyor, by their means, learned that this ambitious knight, under cover of that liberality, which drew crowds of people to his gate, formed assemblies in his house; nay, he got information, that great quantities of arms were often carried thither by night.

He afterwards learned, that there was a conspiracy laid to change the form of the government; that Mælius aspired to the royalty; that the people were to take arms in his favour; and that the tribunes had consented to sell the public liberty.

Minucius, having discovered the whole secret of this conspiracy, immediately gave an account of it to the senate. Heavy reproaches were thrown upon the consuls of the preceding year, and on those of the present, for that so important a discovery should be first made by the purveyor general; whereas the consuls ought, not only to have been acquainted with Mælius's wicked designs more early, but be-

Year of
R O M E
CCCXIV.
Bef. J. C.
Four hun-
dred thirty-
eight,

Seventieth
Consulship.

* A sixth
time Con-
sul.

Year of
R O M E
CCCXIV.
Bef. J. C.
Four hun-
dred thirty-
eight.

Seventieth
Consulship.

fore this time to have punished him. Quinctius replied, that as to the latter, the consuls were unjustly blamed; that they wanted neither courage nor resolution to punish so horrid an attempt; but that the consular authority was too much restrained by the laws of appeal; that, if ever the business should be brought before a general assembly, Mælius would infallibly escape from justice, by the favour of the multitude, who were devoted to him; that, in the present danger, the republic stood in need of a magistrate, not only firm and resolute, but above the laws; and that therefore he would name to the dictatorship his brother L. Quinctius Cincinnatus, a man whose prudence and steady courage were answerable to that supreme authority. Cincinnatus would have declined the office, on account of his great age, being now past fourscore; but the consuls and the whole senate declaring that no man was so fit for it as he, and insisting upon his charging himself with the care of the commonwealth in this critical juncture, he at length acquiesced, praying to the gods, that the public weal might not suffer through his infirmities.

Livy, B. 4.
c. 14.

He named Servilius Ahala to be his general of the horse, and the next day placed guards in all parts of the city, as if some foreign enemy had been at the gates of Rome. This precaution surprised all who knew nothing of the conspiracy; every body inquired the reason of so strange a novelty, and why a dictator should be named in the midst of peace. But

Mælius plainly saw, that the power of that supreme magistrate was wholly bent against him; and therefore, to strengthen himself by the assistance of the multitude, he was now more liberal and bountiful than ever.

The dictator finding that nothing but a stroke of authority could crush so dangerous a plot, caused his tribunal to be carried into the Forum, and ascended it guarded by his dictors armed with their axes. He then sent Servilius, his master of the horse, to cite Mælius to appear before him. Mælius, surprised, and in doubt what course to take, delayed to obey, and sought to make his escape. Servilius commanded a lictor to arrest him; which the lictor having done, Mælius cried out, that the senate wanted to destroy him only out of jealousy, and because he had consecrated his estate to the relief of the poor; he implored the assistance of the multitude, and conjured his friends not to suffer him to be murdered in their presence. The people hereupon, encouraging one another, rescued him out of the lictor's hands. Mælius threw himself into the crowd, to escape; but Servilius pursued him, overtook him, and with a stroke of his sword killed him outright. Then, all sprinkled with the blood of the slain, he presented himself before the dictator; "Mælius" said he, "refused to obey your summons, and endeavoured to raise a rebellion; he has by this hand received his due punishment." "'Twas greatly done," replied the old man, "you have saved the liberty of the commonwealth."

1 Year of
R O M E
CCCXIV.
Bef. J. C.
Four hundred thirty-eight.

Seventieth
Consulship.

Year of
R O M E
CCCXIV.
Bef. J. C.
Four hun-
dred thirty-
eight.

Seventieth
Consulship.

He then convened a general assembly of the people, laid before them the crimes of Mælius, and pronounced that he was justly slain¹. The knight's house, by the dictator's order, was rased to the ground. Prodigious quantities of corn were found there, which Minucius selling to the people at low rates, they made no opposition to a decree which ordered a statue to be erected to his honour, as the reward of his vigilance.

Livy, B. 4.
c. 15, 16.

But three of the tribunes, who were doubtless the confidants and accomplices of Mælius, could never forgive either Minucius or Servilius the death of that ambitious corn-merchant; they made loud complaints of the murder; and the tribunes in general were so much provoked against the senate, that they obstinately opposed the election of consuls: the patricians, to avoid a tumult, were forced to consent that military tribunes should be chosen to the government, for the next year.

Year of
R O M E
CCCXV.
Bef. J. C.
Four hun-
dred thirty-
seven.

Second
Mil. Trib.

Some tribunes of the commons flattered themselves, that they should have a great sway in this election; but, notwithstanding all their cabals, the people, contented with being allowed to stand candidates, gave their votes to patricians only. Mamercus Æmilius, Julius Iulus, and L. Quinctius (the son of the dictator who had just taken off Mælius) were the persons elected.

¹ See what is said on this matter, in the note at the end of chap. xiv.

CHAP. XXXIII.

I. *Fidenæ* revolts from the Romans, and puts itself under the protection of *Tolumnius*, king of the *Veientes*. The Romans name a dictator, *Mamercus Ænilius*, who defeats the enemy in a pitched battle, wherein *Cornelius Cossus*, a legionary tribune, kills *Tolumnius*, and strips him of his armour. II. *Sp. Mælius*, a tribune of the commons, commences a prosecution against *Servilius* and *Minucius*, for the death of *Mælius* the corn merchant. III. The *Veientes* and *Fidenates* renew the war. *Fidenæ* is taken by the Romans. A law is passed, restraining the office of censor to eighteen months duration. IV. The senate is obliged to humour the people, by suffering military tribunes to be created. However, none but patricians are chosen. The rich plebeians complain of the poorer sort, for their having constantly refused to elect any of them to that magistracy. The senate, fearing lest some of the chief plebeians should get into the military tribuneship, contrive, on occasion of a war with the *Æqui*, to get two consuls chosen to the government; but these disagreeing through jealousy, the senate judge it necessary to have a dictator. The consuls refuse to name one. The senators rashly apply to the tribunes to interpose in the affair. The tribunes threaten the consuls. *Posthumius Tubertus* is named dictator. He defeats the enemy. V. The *Æqui* obtain a truce for eight years. Rome being afflicted with a famine and a plague, the people have recourse to foreign superstitions; which are soon prohibited. VI. The *Veientes* make incursions on the Roman lands. Disputes arising between the senate and people about the prerogative of proclaiming war, the Romans do not take the field till the next year, when the people prevail to have military tribunes in the government; but they choose only patricians. These not acting in concert are defeated by the enemy. *Mamercus Æmilius*, raised to the dictatorship, gives the *Veientes* a total overthrow, and takes their camp, as also *Fidenæ*, which had again revolted from the Romans.

I. THE tranquillity of the new administration was disturbed by the defection of *Fidenæ*, a

Year of
R O M E
CCCXV.
Bef. J. C.
Four hun-
dred thirty-
seven.

Second
Mil. Trib.

Livy, B. 4.
c. 17.

city about five miles distant from Rome, on the side of Sabinia. It had been a Roman colony ever since Romulus's time. The Fidenates had frequently revolted; and now again, throwing off the yoke, they put themselves under the protection of Tolumnius, king of the Veientes. Nor did the Fidenates stop at rebellion only, but murdered four ambassadors, whom the Romans sent to them to ask the reason of their conduct. Livy relates, that they did this enormous deed by order of the king, whose aim (he supposes) was to extinguish in them all hope of a reconciliation with Rome. The prospect of coming soon to a bloody battle (for the war was already begun) determined the republic to choose consuls rather than military tribunes, for the ensuing year.

Year of
R O M E
CCCXVI.
Bef. J. C.
Four hun-
dred thirty-
six.

Seventy-
first Con-
sulship.

Livy, B. 4.
c. 18, 19,
20.

M. Geganius (a third time) and L. Sergius were elected. It fell to the latter to conduct the war. But though he gained some advantage over the enemy, it cost the Romans dear, and they did not think fit to continue at the head of the army a general, who was so prodigal of Roman blood. The senate ordered a dictator to be created, and Mamercus Æmilius was nominated by the consuls. The very report of the election of a general whose merit was equal to his employment abated the confidence of the Veientes and Fidenates, who durst not appear in the field till they were joined by the Falisci. The dictator defeated these confederates in a pitched battle. Tolumnius was slain in the action by Cornelius

Cossus, a legionary tribune, who stripped him of his armour and royal robes. And these spoils, called *opima spolia*, Cornelius afterwards carried on his shoulders in the dictator's triumph, and then deposited them in the temple of Jupiter Feretrius. They were the second of the sort known in Rome. The first were borne by Romulus, who killed king Acron in single combat.

II. IN the following year (of the consuls, M. Cornelius and L. Papirius) one Sp. Mælius, a tribune of the people, and a relation of the famous corn-merchant, cited Minucius and Servilius Ahala to answer for what they had done against his kinsman; Minucius for having brought a false accusation against him, and Servilius for having put to death a Roman citizen, before condemnation.

Livy intimates that these prosecutions were fruitless, and that the tribune only brought himself into contempt by them: but others relate that Servilius was condemned to banishment, from which Cicero pretends, that he was afterwards recalled. As for Minucius, we do not find that he suffered any thing from the resentment of the prosecutor.

III. THE chief concern of the Romans, at this time, was to preserve themselves from the plague, with which they were grievously afflicted. And it raged with greater fury, in the following consulship of Julius Iulus* and L. Virginius. While Rome was in this distress, the Veientes and Fidenates came and encamped almost close to the city, on the side of the gate

Year of
R O M E
CCCXVI.
Bef. J. C.
Four hundred thirty-six.

Seventy-first Consulship.

Year of
R O M E
CCCXVII.
Bef. J. C.
Four hundred thirty-five.

Seventy-second Consulship.

Livy, B. 4.
c. 21.

Val. Max.
B. 5. c. 3.
Cic. pro
Domo.
§ 32.

* A third time.

Year of
R O M E
CCCXVIII.
Bef. J. C.
Four hun-
dred thirty-
four.

Seventy-
third Con-
sulship.
Livy, B. 4.
c. 22.

Fast. Cap.

Collina. The senate, being terrified at so near an approach of the enemy, thought it necessary to nominate a dictator; and the consuls pitched upon Quintus Servilius Priscus, who commanded all those, whose health would permit them, to march out of the city. Upon this the enemy immediately retired: but Servilius came up with them near Nomentum, routed them, and afterwards took the city of Fidenæ by sap. However, this being looked upon as a civil war, because Fidenæ was a Roman colony, the general was not granted a triumph, though he probably assumed then the name of Fidenas. This success was followed by a census of the Roman people, which, after the establishment of the censors, never failed to be renewed every five years.

Year of
R O M E
CCCXIX.
Bef. J. C.
Four hun-
dred thirty-
three.

Seventy-
fourth Con-
sulship.

Livy, B. 4.
c. 23.

c. 24.

It is not agreed, whether Rome in the beginning of the year 319 was governed by the former consuls, Julius Iulus and L. Virginus, or by new ones, M. Manlius and Q. Sulpicius, or by three military tribunes. But be that as it will, it is certain that these tribunes or consuls were so little concerned in the events of the year, that they were soon forgotten.

A rumour being spread abroad, that all the nations of Hetruria were to take arms in favour of the Veientes, Mamercus Æmilius, a man illustrious both in peace and war, was raised a second time to the dictatorship, a dignity in which he had before acquired great glory against the same enemies. But the news of this dreadful league proving false, and Æmilius finding himself deceived in his hopes of

signalizing his second dictatorship by a new victory, resolved however to leave some monument of his zeal for the public liberty. He observed to the people in a general assembly, that their ancestors, in order to preserve their freedom, had established in the republic no officer whose authority was to last above a year: but that this wise precaution had not been remembered in the late creation of censors, who were allowed a five years magistracy; that it was a grievous thing to be subject five years (a great portion of a man's life) to the censure of the same persons: and that a law therefore ought to be made for shortening the duration of that office to eighteen months.

This discourse was received with great applause, especially by the people, and the next day the law, with their approbation, was passed and published in form. Then Æmilius: "To convince you, Romans, that I am in earnest, when I express so great a dislike to magistracies of long continuance, I now resign my own." The multitude, with acclamations of joy, and with expressions of the greatest esteem and affection, conducted him back to his house. But C. Furius and M. Geganius, the present censors, showed a most extravagant resentment of the injury which they pretended was done them, by this abridging of the duration of the censorship. Æmilius had no sooner abdicated his authority, but in virtue of the power belonging to their office, they struck his name out of the roll of his tribe, took from him, as from a scandalous wretch, the privilege of voting, and load-

Year of
R. O. M. E
CCCXIX.
Bef. J. C.
Four hundred thirty-three.

Seventy-fourth Consulship.

Year of
R O M E
CCCXIX.
Bef. J. C.
Four hun-
dred thirty
three.

Seventy-
fourth Con-
sulship.

ed him with a tribute eight times greater than he used to pay. But this persecution, instead of dishonouring him, gave him a new lustre; all the shame fell upon the persecutors. The senators themselves, notwithstanding they disliked the new law, were yet more displeased with the severe and arbitrary conduct of the censors; making this natural reflection, that though they might themselves be for a time possessed of the same power, they should probably be much longer subject to it. And as for the people, full of indignation, they would have torn Furius and Geganius to pieces, if Æmilius had not been so generous as to save them.

Livy, B. 4.
c. 25.

IV. THE tribunes of the commons, by renewing their ordinary harangues against the electing of consuls, prevailed to have military tribunes chosen for the next year; nevertheless, in spite of all their interest and intrigues, the people, still prepossessed in favour of the nobility, as to their capacity for government, and the command of armies, gave their voices again to three patricians, M. Fabius, M. Fostius, and L. Sergius. Nothing remarkable happened in their year except a plague, which ceased in the following year of L. Pinarius, L. Furius, and Sp. Posthumius. And then ambition raised some fresh disturbances at Rome. The wealthy plebeians complained of the inferior sort, as not well enough affected to their interests, having never chosen any but patricians to be military tribunes, notwithstanding the law, which allowed them to choose three ple-

Year of
R O M E
CCCXX.
Bef. J. C.
Four hun-
dred thirty-
two.

Third Mil.
Trib.

belians to that dignity. They met at the houses of the tribunes of the commons, to consult upon this matter; and there they came to this conclusion, that the neglect which had been shown them was owing to the various arts used by the nobles to gain the people's favour in elections, and it was resolved to propose a law, forbidding any pretenders to the superior offices to go about, as had been the custom, in garments of an extraordinary whiteness, (whence they were called candidates) to solicit the people's votes: a matter which, as Livy tells us, would in his days have been thought of small moment, and scarce worthy of a serious debate, but which at this time raised a very warm contention between the two parties. The tribunes prevailed, the law was passed, and the present animosity of the people against the patricians gave reason to believe that the former would no longer refuse their voices to the chief plebeians for the military tribuneship. The senate, to avert this danger, turned their thoughts to get consuls chosen for the next year. The formidable preparations which the Æqui and Volsci made for war at this time favoured the design. As there were no plebeians who had ever commanded armies, and none but old captains and the chief men of the senate were fit for that employment, the people were indifferent, whether consuls or military tribunes were chosen this year. Thus the senate being left masters of the election, the consulship was restored, and T. Quinctius, the son of Lucius, and C. Julius Mento, attain-

Year of
R. O. M. E.
CCCXXI.
Bef. J. C.
Four hundred thirty-one.



Fourth Mil.
Trib.

Livy, B. 4.
c. 25.

c. 26.

Year of
R. O. M. E.
CCCXXI.
Bef. J. C.
Four hundred thirty-one.



Fourth Mil.
Trib.

Year of
R O M E
CCCXXII.
Bef. J. C.
Four hun-
dred thirty.

Seventy-
fifth Con-
sulship.

ed that dignity. A better choice could not have been made, with respect either to birth or capacity in the art of war: but jealousy and division arising between them, it is said they were beaten near the Algidus¹. The senate, to prevent the consequences of their defeat, resolved to have recourse to a dictator. But the two consuls, on whom the nomination of him depended, though they differed in all other respects, united to cross the senators in this particular. They were probably offended at the diffidence shown of their abilities; but whatever was the cause of their non-compliance with the senate's desire, they continued obstinate in their determination, till expresses upon expresses bringing accounts of the mischievous progress of the enemies' arms, Q. Servilius Priscus, a consular person, turning to the tribunes of the people who were then in the senate-house, exhorted them to interpose their authority, and oblige the consuls to name a dictator. Those plebeian magistrates joyfully laid hold of so fair an occasion to extend their power, and having withdrawn awhile to consult, returned with this declaration, "That it was the pleasure of the tribunes, that the consuls should obey the senate, or be led to prison, if they persisted in their disobedience." Hereupon the two magistrates submitted, upbraiding the senators however, that it was by

¹ Livy speaks doubtfully, and seems here to be much in the dark. He gives no account of what became of the consul's army after the defeat; nor how the generals came to be so suddenly in the senate-house after it.

them the consular authority was betrayed and subjected to the yoke of the tribunitian power. The conscript fathers indeed seem to have been so much exasperated against the two magistrates, and so intent upon vanquishing their obstinacy, as not to be duly sensible of the breach they made in their own authority. After some dispute between the consuls about the person who should be dictator, they drew lots for the privilege of nominating. It fell to T. Quinctius; and he named his father-in-law Posthumius Tubertus, who appointed L. Julius Iulus to be his general of the horse.

Posthumius was an old captain, of great valour and experience, but naturally harsh and severe. The knowledge of his temper, and the power of life and death, which the dictatorship gave him, made all who were summoned run obediently to range themselves under his ensigns. Leaving the defence of the city to the consul C. Julius, and giving to the other consul, T. Quinctius, the command of one half of the army, he marched away, and soon came up with the enemy. Observing that they were lodged in two separate camps, he posted his troops likewise in two camps, about a mile from theirs. Daily skirmishes ensued, in which the Romans had generally the advantage. This took from the enemy the hope of conquering in the plain field. They attacked therefore the consul's camp in the night. But neither did they succeed in this enterprise. By the able conduct of the dictator and his generals, the Romans, after a bloody conflict,

Year of
R O M E
CCXXII.
Bet J & C.
Four hundred thirty
Seventy
fifth Consulship

Livy, B. 4.
c. 27, 28,
29.

Year of
R O M E
CCCXXIII
Bef. J. C. 8
Four hun-
dred twen-
ty-nine.

Seventy-
sixth Con-
sulship.
Livy, B. 4.
c. 30.

proved victorious. Posthumius led back his army to Rome; and when he had been honoured with a TRIUMPH, laid down the dictatorship.

V. THE next year, in which C. Papirius and L. Julius were consuls, the Æqui, being humbled by former losses, desired to enter into alliance with the republic, on the same foot with the Latines and Hernici. But their envoys perceiving that the Romans were not inclined to a union, upon any other terms, than a submission at discretion, they proposed only a truce, which was granted for eight years. The Volsci at this time quarrelled among themselves, and from disputes and reproaches came to seditions and battles. By this means Rome was left in perfect tranquillity, and nothing remarkable was done there during the present consulship, but the settling, by a law, the value of the oxen and sheep, paid by way of fines for disobedience to magistrates; and the fines were ordered to be paid in money for the future, each ox valued at 100 asses of brass, and each sheep at 10. The tribunes were the first projectors of this new regulation; but the consuls, having notice of the design, proposed the law themselves, by which they gained the favour of the people.

Y. of R.
CCCXXIV.

L. Sergius and Hostus Lucretius passed their consulship in greater inaction than their predecessors. The republic enjoyed a profound peace. But the next year, when T. Quinctius (a second time) and Cornelius Cossus were raised to the consulate, a calamity more grievous than war fell upon Rome, and almost upon all

Y. of R.
CCCXXV.

Italy. An extreme drought occasioned a famine, which was followed by a dreadful plague, that spared neither man nor beast. And not only the bodies of the Romans were distempered, says Livy, but their minds too were infected with various superstitions; and these chiefly of foreign growth. Rites and ceremonies and expiatory sacrifices, never before practised at Rome, were introduced by crafty knaves, who, pretending to prophesy, imposed on the credulity of the people. The chief magistrates, well apprized of the danger of innovations in religion, ordered the ædiles to put a stop to this disorder, and to see, that no other gods were worshipped but the Roman, nor these worshipped in any other manner than that which was established by law.

to VI. THE Veientes, after their defeat near Nomentum, in the year 318, had obtained a truce for eight years, but before this time was expired, they had ravaged the lands of the republic. The senate therefore, in the consulship of L. Papirius* and Servilius Ahala, thought it proper to revenge this injury. The only question was, in what manner war should be declared against them. The senate pretended that their decree would be sufficient: on the other hand the people urged, that to determine affairs of peace and war was their peculiar province. This was not disputed, but the senators alleged that the question at present was not about a new war, but about a war already begun, and only suspended by a truce. The tribunes carried their point by threatening to

Year of
R O M E
CCCXXV.
Bef. J. C.
Four hundred
twenty-seven.

Seventy-
eighth Con-
sulship.

Year of
R O M E
CCCXXVI.
Bef. J. C.
Four hundred
twenty-six.

Seventy-
ninth Con-
sulship.

* A second
time.

to Y
VXXX

to Y
VXXX

Year of
R O M E
CCCXXVI.
Bef. J. C. 8
Four hun-
dred, twen-
ty-six.

Seventy-
ninth Con-
sulship.

Year of
R O M E
CCCXXVII.
Bef. J. C. 7
Four hun-
dred, twenty-five.

Fifth Mil.
Trib.

Livy, B. 4.
c. 31, 32.

hinder the levies, if the consuls did not apply themselves to the people to obtain a declaration of war against the Veientes. These disputes produced these two effects: they delayed the vengeance of the Romans, and made the people insist upon having the government of the republic placed the next year in the hands of military tribunes, and not of consuls.

Four patricians were chosen, T. Quinctius Cincinnatus, C. Furius, M. Posthumius, and A. Cornelius Cossus, and they took their employments by lot. Cossus staid at Rome, the other three marched against the Veientes. But these generals not acting in concert, when they came to an engagement with the enemy, the Roman army was routed. However, it happened very fortunately, that the nearness of the camp saved the troops from slaughter, and their disgrace was greater than their loss. But as it had not been usual for them to suffer any disgrace, the whole city was in consternation at the news of this shameful action. The people demanded to have the generals deposed, and at the same time to have a dictator named. A difficulty arose in relation to this last demand. It had been the prerogative of the consuls to nominate a dictator, and there were no consuls now in being. The augurs being consulted thereupon, declared that Cossus, who had had no share in the late disaster, might lawfully name a dictator. Accordingly he named Mamercus Æmilius, that great man, who had been in the same post twice before, and whom the censors had degraded, and sunk to a level with

the lowest of the people. Æmilius appointed Cossus to be his general of the horse.

In the meantime, the inhabitants of Fidenæ massacred the Roman colony there, and revolted a seventh time to the Veientes, who passed the Tiber, and encamped near the city. The dictator with his infantry attacked them furiously: but his left wing was awhile amazed and terrified by the enemy's new manner of fighting. The Fidenates opened one of the gates of their city, and sent out some soldiers with lighted torches in their hands, and dressed in habits like those usually given the Furies. These ran like mad enthusiasts through the Roman battalions, and threatened them with fire and sword at the same time. But the dictator upbraided his men with cowardice, "What," said he, "are you as much afraid of smoke as a swarm of bees? Make use of your swords to wrest these torches out of the enemies' hands, and then go and set fire to their city with them." The Romans recovered their courage, and Cossus with his cavalry falling upon the enemy at the same time, the latter were entirely defeated: both Fidenæ and the camp of the Veientes were taken and plundered, and the prisoners were partly distributed by lot to the Roman officers, the rest sold for the benefit of the public. This glorious expedition being finished in sixteen days, Æmilius led back his troops to Rome, had the honours of a triumph, and then laid down his dictatorship, leaving it a question, whether his bravery or his moderation were the greater.

Year of
R O M E
cccxxvii.

Bef. J. C. 8.
Four hundred
twenty-five.

Fifth Mil.
Trib.

Livy, B. 4.
c. 33.

Florus, B.
1. c. 12.

Livy, B. 4.
c. 34.

CHAP. XXXIV.

I. Military tribunes are chosen to the government the two following years; but the choice falls only on patricians. The tribunes of the commons use their utmost endeavours to dissuade the people from this preference of the nobles to them, in their elections. The senate, to counterplot them, before the new elections come on, contrive to send away the principal of the plebeians into the field against the Volsci. In their absence Appius Claudius (son of the decemvir) one of the military tribunes, holds an assembly for electing consuls; and C. Sempronius and Q. Fabius are chosen. II. Sempronius brings the whole Roman army into danger of being cut to pieces by the Volsci. An officer of horse, named Tempanius, by his bravery and prudence, prevents the defeat of the Romans. He arrives at Rome before the consul, and gives testimony in favour of his conduct. III. The people condemn Posthumius (one of those military tribunes, who by their disunion had lost a battle in the year 327) in a fine. Tempanius is made one of the tribunes of the commons. His general, Sempronius, being prosecuted by the people for his misconduct, he takes his part, and engages the tribune Hortensius, the accuser, to drop the prosecution.

I. THE two following years were spent in making truces with the Veientes and Æqui, and in other negotiations, and in celebrating the great games of the circus. The government was in each of these years committed to four military tribunes. The tribunes of the commons prevailed so far; but they had still the mortification to see patricians only elected:

A. SEMPRONIUS,

L. FURIUS,

L. QUINCTIUS,

L. HORATIUS.

Y. of R. 328.

AP. CLAUDIUS,

SP. NAUTIUS,

L. SERGIUS,

SEX. JULIUS.

Y. of R. 329.

Year of
R O M E
cccxxviii.
Bef. J. C.
Four hundred
dred twenty-
four.

Year of
R O M E
cccxxix.
Bef. J. C.
Four hundred
dred twenty-
three.
Livy, B. 4.
c. 35.

It is impossible to express the rage and indignation of these plebeian magistrates. They reproached the people with ingratitude. They told them plainly that great recompenses were necessary to encourage men to great actions; and that for their parts they would throw up all care of the plebeian interest, if their zeal and labours were never to be rewarded with honours. That it was much better to repeal the law which qualified the plebeians for the tribuneship, than to see it thus rendered fruitless in all the elections by the cabals of the patricians; and that it would be less shame to the commons to be wholly excluded from the privilege of standing candidates, than to be always rejected as incapable or unworthy.

These discourses, often repeated, made an impression upon the multitude; and at the same time the richest and most eminent men of the plebeians gave out, that if they could once be chosen to the government, they would not fail to get the public lands divided among the citizens, procure the establishment of new colonies, and cause a tax to be laid upon the landed men to provide pay for the soldiers in time of war: in a word, they forgot nothing that might engage the people to raise them to the dignity of military tribunes.

The patrician magistrates, who were then in possession of that dignity, to avoid the shame of having plebeians for their successors, privately agreed with the senate to lead out of Rome (under pretence of making an incursion upon the lands of the Volsci, who, they gave

Year of
R O M E
ccccxix.
Bef. J. C.
Four hundred
twenty-three.

Livy, B. 4.
c. 36.

Year of
R O M E
ccccxix.
Bef. J. C.
Four hundred
twenty-three.

Year of
R O M E
ccccxix.
Bef. J. C.
Four hundred
twenty-three.

Livy, B. 4.
c. 36.

Year of
R O M E
CCCXXIX.
Bef. J. C.
Four hun-
dred twen-
ty-three.

out, were preparing with all diligence for war) the chief of the people, and especially those who aspired to the military tribuneship; and during the absence of the army to proceed to an election of consuls. Three of the military tribunes took the field, leaving Appius, (the decemvir's son) their colleague, to guard the city, and preside at the intended election. Appius was a young man bold and enterprising, and had been educated from his very cradle in an hereditary aversion to the people's power. No sooner were the tribunes with great numbers of the plebeians gone into the field, but laying hold of the opportunity, he, pursuant to a decree of the senate, held the *comitia* for electing consuls. C. Sempronius Atratinus and C. Fabius Vibulanus were chosen: and the people and their tribunes, at their return, found the election too strongly settled, to think of reversing it. They afterwards showed their resentment, by prosecuting one of the consuls as a criminal, on account of the ill success he had in the war against the Volsci.

Year of
R O M E
CCCXXX.
Bef. J. C.
Four hun-
dred twen-
ty-two.

Eightieth
Consulship.

Livy, B. 4.
c. 37.

II. THIS warlike people, who had long fought with the Romans for empire and dominion, did this year make, as it were, a last effort to avoid receiving the yoke of their old enemies. They raised a great number of troops, made choice of able captains, and omitted none of those wise precautions which may be looked upon as the surest presages of good success. Rome sent against them her first consul, Sempronius, a man full of courage, familiar with his soldiers,

and therefore greatly beloved by them, but who was himself more a soldier than a captain, and seemed to think that valour alone was sufficient to supply all the duties of a general. The two armies soon came in view of each other. Sempronius despised enemies whom the Romans had so often vanquished; and, as if he had been sure of winning the victory with only his infantry, left his horse in a place where he could receive no manner of assistance from them. The fight began with equal fury on both sides. The Romans advanced daringly, and charged the enemy with their usual valour. But as they fought with more fury than order, and as the Volsci, drawn together in firm and close battalions, defended themselves with great courage, victory began to declare for the side where was most discipline. The Volsci, led by an experienced general, pressed on briskly, and broke the legions. The Romans, instead of attacking, thought now only how to avoid the attack of the enemy. They gave back, and lost ground apace. The consul perceiving it, hasted to the place where there was most danger. He fought with his own hand, and tried to animate his soldiers by his example and reproaches, but in vain. He called and he threatened; nobody gave attention to his orders. At length all the legions fell into confusion, and the battle had been quite lost, but for the valour and prudence of Sex. Tempanius, an old captain of horse.

Sempronius, who, as was said before, had flattered himself that he should be able to de-

Year of
R O M E
CCCCXX.
Bel. J. C.
Four hun-
dred twen-
ty-two.

Eightieth
Consulship:

Year of
R O M E
CCCCXX.
Bel. J. C.
Four hun-
dred twen-
ty-two.

Livy, B. 4.
c. 38.

Year of
R O M E
CCCXXX.
B. f. J. C.
Four hun-
dred twen-
ty-two.

Eightieth
Consulship.

Val. Max.
B. 3. c. 2.
Livy, B. 4.
c. 39.

feat the enemy with only his foot, had left his horse in a place hemmed in with bogs, where it was impossible for them to fight. Tempanius observing the disorder the legions were put into, leaped to the ground, and addressing himself to his companions, "Follow my lance," said he, "as if it were a standard; and let us show the enemy, that as well on foot as on horseback, nothing can withstand us." The whole body of horse dismounted after his example; and followed him. Tempanius, at the head of them, marched straight against the enemy, and restored the fight. The legions, at the sight of this succour, resumed courage, and returned to the charge with fresh fury. The general of the Volsci could not conceive whence this new body of infantry should come. But as he found himself pressed by them, he sent orders to his troops to open their ranks, and give passage to the soldiers which Tempanius commanded, and then to close again, in order to separate them from the Roman legions. The Volsci did as they were ordered. Tempanius and his men, carried on by the heat of their courage, and imagining they were following victory, and a routed enemy, rushed still forwards: but it was not long before they found themselves cut off from the Roman main body by some of the enemy's battalions, that stood now in close array. Tempanius did his utmost to force his way through them, and rejoin the consul; but he could not break their order. In this extremity he spied an eminence, of which he presently took possession.

A part of the Volscian troops immediately attacked him, believing it impossible for him to make a long resistance: but **TEMPANIUS** throwing his men into a ring, defended himself with invincible bravery; and this diversion saved the Roman army. The consul, however, at the head of the legions, strove in vain to join **Tempanius**. The Volsci, though they lost abundance of men in this last conflict, kept their ground every where; nor could the Romans break one of their battalions. They fought till it was night, without either of the generals being able to perceive on which side lay the advantage; and nothing but want of light made the battle cease.

Both armies, believing themselves losers, equally feared to renew the fight the next morning; nay the terror in both was so great, that they hastily quitted their camps in the night, leaving many of their wounded, and a great part of their baggage behind them, and retired to the mountains that were nearest to them.

Tempanius continued to be invested till after midnight; but then the assailants receiving notice that their main army had abandoned their camp, fled likewise in a fright. The Roman, who doubted not but the Volsci would attack him again when light returned, was very much surprised when at day-break he saw neither friends nor enemies. He could not imagine what was become of two great armies, who, not many hours before, had stretched

Year of
R O M E
CCCXXX.
Bef. J. C.
Four hundred
twenty-two.

Eightieth
Consulship.

Livy, B. 4.
c. 39.

Year of
R O M E
CCCXXX.
Bef. J. C.
Four hun-
dred twen-
ty-two.

Eightieth
Consulship.

Livy, B. 4.
c. 40.

over the whole plain. He went down with a few of his companions, and took a view, first of the Volscian camp; not a man was to be seen in it, except those of the wounded, who had not been able to follow the main body of the army. Then calling down all his soldiers from the hill, he entered the Roman camp, and there found the like solitude. Not knowing to what place the consul was retired with his troops, and fearing the return of the Volsci, upon the first discovery of their error, he took up the wounded Romans, and marched straight to Rome. Some runaways from the battle had got to the city before him; and, because they had seen him and his followers cut off from the main army, and surrounded by the enemy, they had given out, that the whole body of cavalry was cut to pieces. The return therefore of these brave men occasioned an excessive surprise and joy.

It happened, that the people were actually assembled when Tempanius arrived at Rome. The tribunes of the commons thought this to be a favourable opportunity of humbling a consul. They obliged Tempanius to appear in the assembly before he set foot in his own house; and Cn. Julius, one of those plebeian magistrates, asked him aloud, whether he thought Sempronius had chosen a proper time to come to an engagement with the enemy, had supported his line of battle with reinforcements, or in any respect acted the part of a good general? He added, "You are to answer

these questions upon your honour, as you are a man of veracity and bravery. Finally, tell us, what is become of Sempronius and our legions; whether they abandoned you, or you deserted them; and whether we are vanquished or victorious?" Tempanius, far from seeking to make his own advantage of Sempronius's disgrace, answered, "That it did not become a private officer to pretend to judge of the capacity of his general: that the people had given their opinion of it when they chose him consul: that he had seen him fight at the head of the legions with invincible bravery, and expose his own person in all the places where there was most danger: that the great distance between them, after their separation, and the confusion which always happens in so obstinate a fight, had kept him from knowing every thing that passed where the consul was engaged; but that he could however assure them, by what had appeared to him upon a view of the field of battle, that the Volsci had not lost fewer men than the Romans." He added, "that as upon his separation from the main body of the legions, he had been so fortunate as to get possession of an eminence, on which, notwithstanding all the assaults of the enemy, he had preserved those that were trusted to his command; so he presumed the consul, in that general disorder, had gained the mountains, and there intrenched himself." Tempanius then desired leave to retire, in order to get the wounds dressed which he had received in the

Year of
R O M E
CCCXXX.
Bef. J. C.
Four hundred twenty-two.

Eightieth
Consulship.

Livy, B. 4.
c. 41.

Year of
R O M E
CCCXXX.
Bef. J. C.
Four hun-
dred twen-
ty-two.

Eightieth
Consulship.

fight. The whole assembly gave yet greater praises to the discretion and modesty of his answer, than to the valour and good conduct with which he had fought against the enemies of his country.

III. HOWEVER the people were so much out of humour with their generals, that they hastened the condemnation of Posthumius, one of the three military tribunes, who by their disunion had lost a battle in the year 327. The tribunes of the commons had in the beginning of the present year cited both him and his colleague T. Quinctius (the third was dead) to answer for their misconduct; but the prosecution had been suspended by the apprehension of a war with the Volsci. Posthumius was now condemned to pay a large fine¹; but Quinctius was universally acquitted by the tribes, on account of his own signal services, (when consul under the dictator Posthumius) as well as those of his father Cincinnatus, and his uncle Capitolinus; which latter interceded for him.

Year of
R O M E
CCCXXXI.
Bef. J. C.
Four hun-
dred twen-
ty-one.

Eighth
Military
Tribune.*

Livy, B. 4.
c. 42.


As for Tempanius, the people, in reward of his services, chose him some time after to the tribuneship, together with three other officers, who like him had distinguished themselves in

* L. MANLIUS VULSO,
Q. ANTONIUS MERENDA,
L. PAPIRIUS MUGILLANUS,
L. SERVILIUS STRUCTUS.

¹ Ten thousand asses. Decem milibus æris gravis damnatur. 32l. 5s. 10d. Arbuthnot.

the war. In this post he gave new proofs of the generosity of his soul. For L. Hortensius, one of the tribunes, having cited Sempronius, after the year of his consulate was expired, to answer before the assembly of the people for his conduct in the last battle, Tempanius and his three colleagues above-mentioned generously made themselves his advocates, and entreated Hortensius not to persecute a brave general, who had been only unfortunate on that occasion. Hortensius, believing that these tribunes, though they affected to act the part of intercessors, had resolved to interpose their authority in favour of the accused, turning to Sempronius, asked him, "What was become of his patrician spirit, and of that courage which a consciousness of innocence would give him, that he, a consular, should shelter himself under the shadow of the tribunes?" Then turning to his colleagues, "but if I persist in my prosecution of this man, what is the part you will act? Will you rob the PEOPLE of their judicature, and overturn the power of the tribunes?" Tempanius and his colleagues replied, that the ROMAN PEOPLE had indisputably a supreme authority over Sempronius and all the members of the republic; and that, as for themselves, they had neither the inclination, nor the power to deprive the PEOPLE of their right of judging the accused: but that, if the intreaties they made in behalf of their general, who had been to them a father, could not prevail, they would change their habit, as he had

Year of
R O M E
CCCXXXI.
Ref. J. C.
Four hundred
twenty-one.


Eighth Mil.
Tribune.

Year of
R O M E
CCCXXXI.
Bef. J. C.
Four hun-
dred twen-
ty-one.

~~~~~  
Eightieth  
Consulship.

done. "Nay (cried Hortensius) but that shall never be; the commons of Rome shall not see their tribunes in mourning. I have done. I have nothing farther to say against a man who by his behaviour in command could make himself so dear to his soldiers." And thus he dropped the impeachment.

END OF VOL. II.







